UNITED NATIONS

EIGHTH
UNITED NATIONS CONGRESS
ON THE PREVENTION OF CRIME
AND THE TREATMENT OF OFFENDERS

Havana, Cuba, 27 August to 7 September 1990

Distr.
GENERAL

A/CONF.144/28
5 October 1990

ORIGINAL: ENGLISH

REPORT OF THE EIGHTH UNITED NATIONS CONGRESS ON THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS*

Havana, Cuba, 27 August-7 September 1990

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* This is an advance mimeographed version of the report, which will be issued in printed form as a United Nations sales publication.

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Part one. DECISIONS OF THE CONGRESS

CHAPTER I

DECISIONS OF THE CONGRESS

A. Draft instruments and resolutions recommended for adoption by the General Assembly

1. The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Havana from 27 August to 7 September, adopted the following draft instruments and resolutions for the consideration of the General Assembly:

1. International co-operation for crime prevention and criminal justice in the context of development

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Recommends to the General Assembly the adoption of the following draft resolution:

The General Assembly,

Reaffirming the purposes and principles of the United Nations and the commitment of all States to respect the obligations assumed by them, in accordance with the Charter of the United Nations,

Convinced that crime prevention and criminal justice in the context of development should be oriented towards the observance of the principles contained in the Caracas Declaration, 1/ the Milan Plan of Action, 2/ the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order 3/ and other relevant resolutions and recommendations of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling its resolution 43/99 of 8 December 1988, in which it stressed the need for Member States to continue to make concerted and systematic efforts to strengthen international co-operation in crime prevention and criminal justice, as identified in the Milan Plan of Action and to facilitate the adoption by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders of viable and constructive action-oriented strategies against crime,

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1/ General Assembly resolution 35/171, annex.

2/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

3/ Ibid., sect. B.

Recalling also its resolution 44/72 of 8 December 1989,

Recalling further Economic and Social Council resolution 1989/68 of 24 May 1989, in which the Council reaffirmed its conviction of the importance of the programme of the United Nations in the field of crime prevention and criminal justice and the necessity of strengthening it in order to make it fully responsive to the needs and expectations of Member States,

Adopts the recommendations on international co-operation for crime prevention and criminal justice in the context of development, as contained in the annex to the present resolution.

ANNEX

Recommendations on international co-operation for crime prevention and criminal justice in the context of development

A. Crime prevention and criminal justice in the context of development

1. Governments should reaffirm their commitment to respect the existing international treaties and their adherence to principles expressed in the Charter of the United Nations and in other relevant international instruments. Crime can also be prevented by ensuring that those principles are not sacrificed.

2. Member States should intensify the struggle against international crime by respecting and promoting the rule of law and legality in international relations and, for that purpose, they should complete and further develop international criminal law, fully implement the obligations following from international treaties and instruments in this field (pacta sunt servanda), and examine their national legislation in order to ensure that it meets the needs of international criminal law.

3. Governments should accord priority attention to the promulgation and implementation of appropriate laws and regulations to control and combat transnational crime and illegal international transactions, especially by the provision of proper collaborative schemes and trained personnel. Also, national laws should be reviewed in order to ensure a more effective and adequate response to the new forms of criminal activity, not only through the application of criminal penalties, but also through civil or administrative measures.

4. The national, regional and international aspects of growing pollution and the exploitation and destruction of the environment should be recognized and controlled as a matter of urgency, in view of its increasing and alarming devastation, deriving from various sources. Besides measures of administrative law and liability under civil law, the role of criminal law as an instrument that can help to achieve such control should be kept under review. The desirability of elaborating guiding principles for the prevention of crimes against the environment should be considered.

5. In view of the fact that advanced technology and specialized technical knowledge are employed in criminal activities pursued in international trade and commerce, including computer fraud, by the misuse of banking facilities and the manipulation of tax laws and customs regulations, law enforcement and criminal justice officials should be properly trained and provided with adequate legal and technical means to be able to detect and investigate such offences. The co-ordination and co-operation of other relevant agencies at the national level should be ensured and their capacities further improved. The development and strengthening of direct arrangements of international co-operation between the various agencies of national criminal justice systems should also be pursued.

6. Since even legitimate enterprises, organizations and associations may sometimes be involved in transnational criminal activities affecting national economies, Governments should adopt measures for the control of such activities. They should also collect information from various sources so as to have a solid base for the detection and punishment of enterprises, organizations and associations, their officials, or both, if they are involved in such criminal activities, with a view also to preventing similar conduct in the future.

7. Note should be taken of the fact that many countries lack adequate laws to deal with the emerging manifestations of transnational crime, and that the adoption and implementation of appropriate instruments and measures to prevent this type of criminality are urgently needed. In this regard, the exchange of information on existing laws and regulations should be encouraged in order to facilitate the dissemination and adoption of appropriate measures.

8. Because the corrupt activities of public officials can destroy the potential effectiveness of all types of governmental programmes, hinder development, and victimize individuals and groups, it is of crucial importance that all nations should (a) review the adequacy of their criminal laws, including procedural legislation, in order to respond to all forms of corruption and related actions designed to assist or to facilitate corrupt activities, and should have recourse to sanctions that will ensure an adequate deterrence; (b) devise administrative and regulatory mechanisms for the prevention of corrupt practices or the abuse of power; (c) adopt procedures for the detection, investigation and conviction of corrupt officials; (d) create legal provisions for the forfeiture of funds and property from corrupt practices; and (e) take appropriate measures against enterprises involved in corruption. The Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs should co-ordinate the elaboration of materials to assist countries in these efforts, including the development of a manual to combat corruption, and should provide specialized training to judges and prosecutors that would qualify them to deal with the technical aspects of corruption, as well as with the experiences derived from specialized courts handling such matters.

9. Noting the alarming threat posed by illicit trafficking in narcotic drugs and psychotropic substances, which is among the worst crimes that humanity is facing, and the action carried out by United Nations drug control units and bodies in this field, and concerned that, despite all the efforts undertaken at the national, regional and international levels, this phenomenon persists unabated, it is important that efforts to combat this type of criminality

should be given a central place in all crime prevention and criminal justice plans and programmes. The work of the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs in this area should be strengthened. Special assistance should be extended to developing countries for the implementation of drug abuse control programmes and the elaboration of collaborative prevention and control strategies.

10. The process of developing comprehensive model codes, especially at the regional and subregional levels, to combat crimes of transnational and international dimensions, should be encouraged. Also, efforts should be made to harmonize national criminal laws, so as to make them fully responsive to the realities and ramifications of such crimes. Practical arrangements, such as extradition, mutual assistance in criminal justice and the sharing and exchange of expertise and information, should be pursued. Adequate attention should be given to effective enforcement mechanisms in order to minimize the consequences of transborder crimes, including their effect on countries not directly involved.

11. Appropriate educational policies should be developed for making the populations of Member States more sensitive to the problem through formal educational systems and general public information programmes, with a view to promoting awareness of the ways and means by which criminal victimization can be avoided, as well as acquainting the public at large with the objectives and processes of the criminal justice system.

12. Recognizing the need for specific preventive measures related to such types of criminality as burglary, violent theft and street crime, an inventory of preventive measures should be prepared by the United Nations on the basis of an in-depth assessment and evaluation of their effectiveness in various cultural, social, economic and political contexts.

13. With respect to the victims of crime and abuse of power, a guide containing an inventory of comprehensive measures for education on the prevention of victimization, and on the protection of, and assistance and compensation to, victims should be prepared. This guide should be applied in accordance with the legal, socio-cultural and economic circumstances of each nation, taking into account the important role of non-governmental organizations in this sphere.

14. In view of its crucial function in crime prevention, the criminal justice system should be developed on the basis of the progressive rationalization and humanization of criminal laws and procedures, sentencing policies and dispositional alternatives, within the overall framework of social justice and societal aspirations.

15. A systematic approach to crime prevention planning should be pursued to provide for the incorporation of crime prevention policies into national development planning, starting from an overall reassessment of substantive criminal and procedural laws whenever appropriate. This approach would include the introduction of the processes of decriminalization, depenalization and diversion, as well as reforms of procedures that would ensure the support of members of the public and review of existing policies with a view to assessing their impact. It would also include appropriate links to be established between the criminal justice system and other development sectors,

including education, employment, health, social policy and other related fields.

16. The trial process should be consonant with the cultural realities and social values of society, in order to make it understood and to permit it to operate effectively within the community it serves. Observance of human rights, equality, fairness and consistency should be ensured at all stages of the process.

B. International, scientific and technical co-operation

17. In order to increase the effectiveness of international co-operation in crime prevention and criminal justice, concerted efforts should be made towards (a) the ratification and implementation of existing international instruments; (b) the development of bilateral and multilateral instruments; and (c) the preparation and elaboration of model instruments and standards for use at the national, bilateral, multilateral, subregional, regional and interregional levels.

18. The formulation of international instruments, standards and norms should include the following specific areas of concern: (a) judicial assistance treaties, in particular between common law and civil law countries, dealing with the means for obtaining evidence conforming to the requirements of the requesting State; (b) development of standardized requests for extradition and mutual assistance; (c) development of the means of providing assistance to victims of crime and abuse of power, with emphasis on the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 4/ and of providing adequate protection for witnesses; (d) further consideration of issues of transnational jurisdiction in order to assist in the process of responding to requests for extradition and mutual assistance and in the implementation of international instruments; and (e) elaboration of standards for international assistance in respect of bank secrecy, facilitating the seizure and confiscation of proceeds in bank accounts derived from criminal acts. In particular, banks and other financial institutions should be urged to standardize their reporting requirements and documents so that these can be used more rapidly and effectively as evidence. More effective international standards to inhibit the laundering of money and investment connected with criminal activities, such as narcotics trafficking and terrorism, should also be developed.

19. Member States, intergovernmental and non-governmental organizations and international, national and private funding agencies should assist the United Nations in the establishment and operation of a global crime prevention and criminal justice information network. Member States are urged to contribute to this endeavour by financing equipment and expertise. Consideration should also be given to what categories of criminal justice data can be provided and exchanged on a regular basis.

4/ General Assembly resolution 40/34, annex.

20. In accordance with the numerous decisions and resolutions of relevant organs of the United Nations, including the five-yearly United Nations congresses on the prevention of crime and the treatment of offenders, measures should be taken to strengthen programmes of international technical and scientific co-operation in the field of crime prevention and criminal justice on a bilateral and multilateral basis, as substantive components of broader development programmes, taking into account the special needs of developing countries and, in particular, the worsening socio-economic situation in many of them, which contributes to the increase of structural inequality and criminality.

21. In order to formulate and develop proper regional and interregional strategies of international, technical and scientific co-operation in combating crime and improving the effectiveness of preventive and criminal justice activities, the programmes of technical and scientific co-operation should be directed especially towards (a) reinforcement of the technical capacities of the criminal justice agencies; (b) an upgrading of the human and technical resources in all sectors of the criminal justice system in order to stimulate technical assistance, model and demonstration projects, research activities and training programmes, in close co-operation with the United Nations regional and interregional institutes for the prevention of crime and the treatment of offenders and competent non-governmental organizations; (c) the further development and improvement, at the national, regional, interregional and international levels, of information bases for the collection, analysis and dissemination of data on crime trends, innovative ways and methods of crime prevention and control, the operation of criminal justice agencies, in order to provide an appropriate basis for policy-formulation and programme implementation; (d) the promotion, through educational programmes and training activities, of the implementation of United Nations norms, guidelines and standards in crime prevention and criminal justice; and (e) the elaboration and implementation of joint strategies and collaborative arrangements to deal with crime problems of mutual concern.

22. The Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs, as the focal point of United Nations activities in this field, the United Nations regional and interregional institutes for the prevention of crime and the treatment of offenders, the co-operating entities like the Arab Security Studies and Training Center, the interregional advisory services in crime prevention and criminal justice, and other relevant United Nations bodies, as well as intergovernmental and non-governmental organizations enjoying consultative status with the Economic and Social Council, should be strengthened so as to increase the scope of their operations, improve their co-ordination and diversify forms and methods of technical and scientific co-operation.

23. The role of the Committee on Crime Prevention and Control as the principal body dealing with crime prevention and criminal justice matters entrusted, inter alia, with the preparations for the United Nations congresses on the prevention of crime and the treatment of offenders, should be further enhanced so as to enable it to fulfil its important functions.

24. The capacity of the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs, as the only

professional and specialized entity within the United Nations system with overall responsibility for its crime prevention and criminal justice programme, should be strengthened in terms of both human and financial resources. Prompt implementation of the General Assembly and Economic and Social Council resolutions related thereto is urgently needed. In particular, priority attention should be given to the implementation of paragraphs 4 and 5 of General Assembly resolution 42/59, in which the Assembly approved the recommendations on the review of the functioning and programme of work of the United Nations in the field of crime prevention and criminal justice 5/ contained in Economic and Social Council resolutions 1986/11 and 1987/53 and requested the Secretary-General, inter alia, to take measures to ensure that the programme of work is supported by adequate resources; and paragraph 3 (a) of Economic and Social Council resolution 1987/53, in which the Council requested the Secretary-General to develop the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs as a specialized body and facilitating agent in the field of crime prevention and criminal justice. Attention should also be given to other relevant resolutions of the General Assembly and the Economic and Social Council, as well as to the recommendations of the regional preparatory meetings for the Eighth Congress and of the Committee on Crime Prevention and Control.

25. The United Nations regional and interregional institutes for crime prevention and the treatment of offenders should further develop their research, training and technical assistance capacities, and widen their collaborative networks through more extensive reliance on non-governmental organizations and national research and educational institutions, in order to meet the growing requests from developing countries for technical and scientific assistance. The Governments concerned, relevant regional bodies and organizations and United Nations entities should actively assist the United Nations regional and interregional institutes for the prevention of crime and the treatment of offenders, and particularly the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders, in consolidating its status and further promoting its activities.

26. Governments should be invited to fund regional advisory services in their regions, directly or through the United Nations Development Programme, so as to develop further and complement existing structures and possibilities in this field. The regional commissions should be encouraged to do likewise and should be supported in their efforts to that end.

27. Special attention should be paid to strengthening the collaborative ties in the field of crime prevention and criminal justice between the Centre for Social Development and Humanitarian Affairs, and the Department of Technical Co-operation for Development of the United Nations Secretariat, the United Nations Development Programme, the World Bank and other relevant entities, with a view to ensuring adequate resources for technical co-operation activities in crime prevention and criminal justice. Interested Governments should give priority to the inclusion of crime prevention and criminal justice projects in the country and regional programmes proposed for the support of the United Nations Development Programme.

5/ E/1987/43.

28. In order to fully implement the mandates emerging from the crime prevention and criminal justice programme and to provide additional technical and scientific expertise and resources for matters of international co-operation in this field, broader involvement of, and assistance by, non-governmental organizations are required.

29. Governments and other funding agencies should contribute to the United Nations Trust Fund for Social Defence in order to enable the United Nations to implement, in an adequate and effective manner, programmes of technical and scientific co-operation in this field.

2. Review of the functioning and programme of work of the United Nations in crime prevention and criminal justice

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Recommends to the General Assembly the adoption of the following draft resolution:

The General Assembly,

Aware of the responsibility assumed by the United Nations in the field of crime prevention and criminal justice in pursuance of Economic and Social Council resolution 155 C (VII) of 13 August 1948 and General Assembly resolution 415 (V) of 1 December 1950,

Recalling its resolutions 40/32 of 29 November 1985, 41/107 of 4 December 1986, 42/59 of 30 November 1987, 43/99 of 8 December 1988 and 44/72 of 8 December 1989, and Economic and Social Council resolutions 1986/11 of 21 May 1986, 1987/53 of 28 May 1987, 1988/44 of 27 May 1988, 1989/68 of 24 May 1989 and 1990/27 of 24 May 1990,

Recognizing the increasingly transnational character and dimensions of crime and also recognizing that the new, organized and sophisticated forms of crime call for concerted international action,

Alarmed by the high human and material costs of crime and aware that its consequences involve a substantial drain on the economies of Member States, and loss and damage to the victims of crime,

Convinced of the urgent need for more effective and responsive international mechanisms to assist countries and facilitate joint strategies in areas of mutual concern,

Noting that the Committee on Crime Prevention and Control, in resolution 10/1 of 31 August 1988, 6/ requested its Chairman to appoint a sub-committee to provide an overview of the magnitude of the problem of crime in its economic, criminological, social and juridical aspects, to assess the most efficient means of stimulating practical international action in support of Member States and, in particular, the role of the United Nations in that regard, and to make recommendations to the Committee, at its eleventh session, concerning the most effective mechanisms for the implementation of the conclusions of the overview, and noting that a report on these matters was prepared by a sub-committee appointed by the Chairman, which was considered, reviewed, revised and approved by the Committee at its eleventh session,

Noting also that the General Assembly, in its resolution 44/72 of 8 December 1989, invited the Committee on Crime Prevention and Control, at its eleventh session, to give priority attention to the conclusions and

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6/ Official Records of the Economic and Social Council, 1990, Supplement No. 10 (E/1990/31), chap. I, sect. C.

recommendations of its sub-committee and to consider their appropriate follow-up by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Noting with appreciation the report of the Committee on Crime Prevention and Control entitled "The need for the creation of an effective international crime and justice programme" 7/ and its endorsement by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, as well as the deliberations of the Congress thereon,

1. Decides to establish an intergovernmental working group, which, on the basis of the report of the Committee on Crime Prevention and Control entitled "The need for the creation of an effective international crime and justice programme", would produce a report elaborating proposals for an effective crime prevention and criminal justice programme and suggesting how that programme could most appropriately be implemented, and, accordingly, requests the President of the General Assembly, in consultation with the chairmen of the regional groups, to appoint no more than thirty Member States on the basis of the principle of equitable geographical distribution to constitute the membership of the working group;

2. Invites Member States, in consultation with the Secretary-General and the Chairman of the Committee on Crime Prevention and Control, to convene an early ministerial meeting:

(a) To consider the report of the intergovernmental working group in order to decide what the future crime prevention and criminal justice programme should be;

(b) To consider, in this context, the possible need for a convention or other international instrument to develop the content, structure and dynamics of that programme, including mechanisms for setting priorities, securing the implementation of the programme and monitoring the results achieved;

3. Requests the Secretary-General, in preparation for the ministerial meeting, to assess the possible implications of the programme proposed by the intergovernmental working group for the resources and organization of the Secretariat and to report thereon to the ministerial meeting and to the Committee on Crime Prevention and Control;

4. Also requests the Secretary-General to take all practical measures to ensure rapid implementation of General Assembly resolutions 42/59 and 44/72 of 8 December 1989 and Economic and Social Council resolutions 1986/11, 1987/53, 1989/68 of 24 May 1989 and 1990/27 of 24 May 1990, in so far as they relate to the strengthening and upgrading of the status of the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs, taking into account the demands on the Branch that will be created by the preparations for the above-mentioned meetings and by the current and expected programme, including the conclusions and recommendations of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

7/ E/1990/31/Add.1.

5. Invites Member States to provide active support and assistance for the development of an effective international crime prevention and criminal justice programme and of viable mechanisms for implementing it;

6. Decides that the conclusions and recommendations of the ministerial meeting should be brought to the attention of the General Assembly, under the agenda item entitled "Crime prevention and criminal justice", for appropriate action.

3. Computerization of criminal justice

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Recommends to the General Assembly the adoption of the following draft resolution:

Computerization of criminal justice

The General Assembly,

Recalling its resolution 44/72 of 8 December 1989, in which the question of computerization of criminal justice was addressed,

Recalling also resolution 9 of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders 8/ on the development of crime and criminal justice information and statistical systems,

Recalling Economic and Social Council resolution 1986/12 of 21 May 1986,

Bearing in mind the recommendations on computerization of criminal justice administration proposed by the interregional preparatory meeting for the eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures, which emanated from the European Seminar on the Computerization of Criminal Justice Information: Realities, Methods, Perspectives and Effects, held at Popowo, Poland, from 18 to 22 May 1987,

Aware that crime poses a serious problem to the personal security of individuals and to the enjoyment of their human rights, thereby adversely affecting the quality of life and harming the development process,

Aware also that inefficiencies, inequalities or failures in the administration of criminal justice may themselves infringe on the rights and personal security of individuals,

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8/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. E.

Recognizing that the computerization of criminal justice administration is an important mechanism for assistance in the efficient and humane management of criminal justice as long as the protection of privacy, the respect for human rights and fundamental freedoms are taken into account,

Noting with appreciation the principles on the storage, use and protection of data enunciated in the final report of the Special Rapporteur of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities on "Guidelines for the Regulation of Computerized Personal Data Files", 9/

Recognizing that computerization of criminal justice is an important mechanism for the production of statistical information that would benefit national Governments and the international community by providing data on crime trends and the operation of criminal justice systems,

Recognizing also that the growth of crime nationally and internationally calls for enhanced international co-operation,

Noting that the workshop and seminar on the computerization of criminal justice administration held at the Eighth Congress offered a suitable opportunity to exchange experience and establish viable policy options on this issue,

Conscious that promotion of the computerization of criminal justice administration among Member States requires the enhancement of technical co-operation activities,

Emphasizing the common problems faced by all Member States in the administration and computerization of criminal justice, and that both developing and developed countries may, through an enhanced capacity for an exchange of information on an international level, benefit from such international co-operation in the process of computerization,

Mindful that technical co-operation requires extensive expertise and resources and new logistical arrangements for the speedy delivery of services relating to the computerization of criminal justice administration,

Noting with appreciation the draft directory of automated criminal justice information systems submitted by the Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations, to the first United Nations workshop on computerization of criminal justice information, organized within the framework of the Eighth United Nations Congress,

1. Calls upon the Secretary-General, to the extent that the activities referred to in the present resolution cannot be undertaken within existing resources and with available expertise, to prepare proposals for submission to potential donors in the governmental, intergovernmental and private sectors, in possible consortium, to provide such funding and expertise; such proposals should include pilot projects to demonstrate the value and viability of such

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9/ E/CN.4/Sub.2/1988/22.

activities, and serve as a basis for ensuring long-term resource support from diverse sources;

2. Requests the Secretary-General, in co-operation with the network of regional and interregional institutes, to strengthen the Global Crime and Criminal Justice Information Network by:

(a) Developing and distributing appropriate publications, reports and newsletters;

(b) Developing a directory of innovative programmes for the computerization of the administration of criminal justice;

(c) Organizing regional and interregional meetings, seminars and workshops on a continuing basis;

(d) Maintaining an up-to-date roster of individuals and organizations to form the basis of an international technical co-operation infrastructure;

(e) Enhancing communication between Member States by utilizing an electronic information network;

(f) Facilitating the exchange of criminal justice computer applications;

3. Requests the Secretary-General, in co-operation with the network of regional and interregional institutes, to establish a technical co-operation programme for the systematization and computerization of criminal justice in order to offer training, assess needs, formulate and execute specific projects, and to report on the results achieved to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

4. Further requests the Secretary-General to establish an international group of experts, which would be supported by the Department of Technical Co-operation for Development, would report regularly to the Secretary-General, and would have interregional representation and responsibility for:

(a) Reviewing and assessing national experiences in the computerization of criminal justice;

(b) Overseeing the establishment of the technical co-operation programme;

(c) Monitoring the activities of the technical co-operation programme;

(d) Informing Member States of the potential availability of funds and services from various donors in the governmental, intergovernmental and private sectors;

(e) Informing such donors of the needs of Member States for assistance;

(f) Consulting with relevant experts in the private sector in the field of criminal justice;

5. Requests that adequate information on the experience of Member States with systematization and computerization should be included and the

necessary facilities for the exchange of general substantive information between Member States should be provided in the Global Crime and Criminal Justice Information Network;

6. Requests the Secretary-General and the Member States to pay special attention to the developing countries in co-operating and providing technical assistance for the formulation of information programmes and statistics regarding crime and criminal justice;

7. Urges Member States, intergovernmental and non-governmental organizations, specialized agencies and other bodies, including in particular the United Nations Development Programme and the World Bank, and interested entities in the private sector with a technical co-operation programme, to consider giving high priority to criminal justice systematization and computerization projects in such programmes;

8. Further urges Member States to assist the Secretary-General in the funding of the Global Crime and Criminal Justice Information Network, the technical co-operation programme and the work of the international group of experts;

9. Requests the Committee on Crime Prevention and Control, in preparing the provisional agenda for the Ninth United Nations Congress, to consider including the question of computerization of the administration of criminal justice as one of the items on the agenda as well as the organization of the Second United Nations Computerization Workshop within the framework of the Ninth Congress in order to allow for the exchange of experiences in technical co-operation among Member States and other interested parties on the improvement of the administration of criminal justice.

4. United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Recommends to the General Assembly the adoption of the following draft resolution:

United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)

The General Assembly,

Bearing in mind the Universal Declaration of Human Rights 10/ and the International Covenant on Civil and Political Rights, 11/ as well as other international human rights instruments pertaining to the rights of persons in conflict with the law,

Bearing in mind also the Standard Minimum Rules for the Treatment of Prisoners, 12/ adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and the important contribution of those Rules to national policies and practices,

Recalling resolution 8 of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders 13/ on alternatives to imprisonment,

Recalling also resolution 16 of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders 14/ on reduction of the prison population, alternatives to imprisonment, and social integration of offenders,

Recalling further Economic and Social Council resolution 1986/10 of 21 May 1986, section XI, on alternatives to imprisonment, in which the Secretary-General was requested to prepare a report on alternatives to imprisonment for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and to study that question with a view to the formulation of basic principles in that area, with the assistance of the regional institutes,

Recognizing the need to develop local, national, regional and international approaches and strategies in the field of non-institutional treatment of offenders and the need to formulate standard minimum rules, as emphasized in the report of the Committee on Crime Prevention and Control on

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10/ General Assembly resolution 217 A (III).

11/ General Assembly resolution 2200 A (XXI), annex.

12/ See Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.88.XIV.1), sect. G.

13/ See Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Caracas, 25 August-5 September 1980: report prepared by the Secretariat (United Nations publication, Sales No. E.81.IV.4), chap. I, sect. B.

14/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. E.

its fourth session, concerning the methods and measures likely to be most effective in preventing crime and improving the treatment of offenders, 15/

Convinced that alternatives to imprisonment can be an effective means of treating offenders within the community to the best advantage of both the offenders and society,

Aware that the restriction of liberty is justifiable only from the viewpoints of public safety, crime prevention, just retribution and deterrence and that the ultimate goal of the criminal justice system is the reintegration of the offender into society,

Emphasizing that the increasing prison population and prison overcrowding in many countries constitute factors that create difficulties for the proper implementation of the Standard Minimum Rules for the Treatment of Prisoners,

Taking note with appreciation of the work accomplished by the Committee on Crime Prevention and Control, as well as the interregional preparatory meeting on criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures and by the regional preparatory meetings for the Eighth Congress,

Expressing its gratitude to the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders for the work accomplished in the development of the Standard Minimum Rules for Non-custodial Measures, as well as to the various intergovernmental and non-governmental organizations involved, in particular, the International Penal and Penitentiary Foundation for its contribution to the preparatory work,

1. Adopts the United Nations Standard Minimum Rules for Non-custodial Measures, contained in the annex to the present resolution, and approves the recommendation of the Committee on Crime Prevention and Control that the Rules should be known as the Tokyo Rules; 16/

2. Recommends the Tokyo Rules for national, regional and interregional action and implementation, taking into account the political, economic, social and cultural circumstances and traditions of each country;

3. Calls upon Member States to apply the Tokyo Rules in their policies and practice;

4. Invites Member States to bring the Tokyo Rules to the attention of, for example, law enforcement officials, prosecutors, judges, probation officers, lawyers, victims, offenders, social services and non-governmental organizations involved in the application of non-custodial measures, as well as members of the executive, the legislature and the general public;

15/ E/CN.5/536, annex.

16/ A/CONF.144/IPM.4, chap. III, para. 73.

5. Requests Member States to report on the implementation of the Tokyo Rules every five years, beginning in 1994;

6. Urges the regional commissions, the regional and interregional institutes in the field of the prevention of crime and the treatment of offenders, specialized agencies and other entities within the United Nations system, other intergovernmental organizations concerned and non-governmental organizations in consultative status with the Economic and Social Council to be actively involved in the implementation of the Tokyo Rules;

7. Calls upon the Committee on Crime Prevention and Control to consider, as a matter of priority, the implementation of the present resolution;

8. Requests the Secretary-General to take the necessary steps to prepare a commentary to the Tokyo Rules, which is to be submitted to the Committee on Crime Prevention and Control at its twelfth session for approval and further dissemination, paying special attention to the legal safeguards, the implementation of the Rules and the development of similar guidelines at the regional level;

9. Invites the United Nations regional and interregional institutes for the prevention of crime and the treatment of offenders to assist the Secretary-General in this task;

10. Urges intergovernmental and non-governmental organizations and other entities concerned to remain actively involved in this initiative;

11. Requests the Secretary-General to take steps, as appropriate, to ensure the widest possible dissemination of the Tokyo Rules, including their transmission to Governments, interested intergovernmental and non-governmental organizations and other parties concerned;

12. Also requests the Secretary-General to prepare every five years, beginning in 1994, a report for the Committee on Crime Prevention and Control on the implementation of the Tokyo Rules;

13. Further requests the Secretary-General to assist Member States, at their request, in the implementation of the Tokyo Rules and to report regularly thereon to the Committee on Crime Prevention and Control;

14. Requests that the present resolution and the text of the annex be brought to the attention of all United Nations bodies concerned and be included in the next edition of the United Nations publication entitled Human Rights: A Compilation of International Instruments.

ANNEX

United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)

I. GENERAL PRINCIPLES

1. Fundamental aims

1.1 The present Standard Minimum Rules provide a set of basic principles to promote the use of non-custodial measures, as well as minimum safeguards for persons subject to alternatives to imprisonment.

1.2 The Rules are intended to promote greater community involvement in the management of criminal justice, specifically in the treatment of offenders, as well as to promote among offenders a sense of responsibility towards society.

1.3 The Rules shall be implemented taking into account the political, economic, social and cultural conditions of each country and the aims and objectives of its criminal justice system.

1.4 When implementing the Rules, Member States shall endeavour to ensure a proper balance between the rights of individual offenders, the rights of victims, and the concern of society for public safety and crime prevention.

1.5 Member States shall develop non-custodial measures within their legal systems to provide other options, thus reducing the use of imprisonment, and to rationalize criminal justice policies, taking into account the observance of human rights, the requirements of social justice and the rehabilitation needs of the offender.

2. The scope of non-custodial measures

2.1 The relevant provisions of these Rules shall be applied to all persons subject to prosecution, trial or the execution of a sentence, at all stages of the administration of criminal justice. For the purposes of the Rules, these persons are referred to as "offenders", irrespective of whether they are suspected, accused or sentenced.

2.2 The Rules shall be applied without any discrimination on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth or other status.

2.3 In order to provide greater flexibility consistent with the nature and gravity of the offence, with the personality and background of the offender and with the protection of society and to avoid unnecessary use of imprisonment, the criminal justice system should provide a wide range of non-custodial measures, from pre-trial to post-sentencing dispositions. The number and types of non-custodial measures available should be determined in such a way so that consistent sentencing remains possible.

2.4 The development of new non-custodial measures should be encouraged and closely monitored and their use systematically evaluated.

2.5 Consideration shall be given to dealing with offenders in the community avoiding as far as possible resort to formal proceedings or trial by a court, in accordance with legal safeguards and the rule of law.

2.6 Non-custodial measures should be used in accordance with the principle of minimum intervention.

2.7 The use of non-custodial measures should be part of the movement towards depenalization and decriminalization instead of interfering with or delaying efforts in that direction.

3. Legal safeguards

3.1 The introduction, definition and application of non-custodial measures shall be prescribed by law.

3.2 The selection of a non-custodial measure shall be based on an assessment of established criteria in respect of both the nature and gravity of the offence and the personality, background of the offender, the purposes of sentencing and the rights of victims.

3.3 Discretion by the judicial or other competent independent authority shall be exercised at all stages of the proceedings by ensuring full accountability and only in accordance with the rule of law.

3.4 Non-custodial measures imposing an obligation on the offender, applied before or instead of formal proceedings or trial, shall require the offender's consent.

3.5 Decisions on the imposition of non-custodial measures shall be subject to review by a judicial or other competent independent authority, upon application by the offender.

3.6 The offender shall be entitled to make a request or complaint to a judicial or other competent independent authority on matters affecting his or her individual rights in the implementation of non-custodial measures.

3.7 Appropriate machinery shall be provided for the recourse and, if possible, redress of any grievance related to non-compliance with internationally recognized human rights.

3.8 Non-custodial measures shall not involve medical or psychological experimentation on, or undue risk of physical or mental injury to, the offender.

3.9 The dignity of the offender subject to non-custodial measures shall be protected at all times.

3.10 In the implementation of non-custodial measures, the offender's rights shall not be restricted further than was authorized by the competent authority that rendered the original decision.

3.11 In the application of non-custodial measures, the offender's right to privacy shall be respected, as shall be the right to privacy of the offender's family.

3.12 The offender's personal records shall be kept strictly confidential and closed to third parties. Access to such records shall be limited to persons directly concerned with the disposition of the offender's case or to other duly authorized persons.

4. Saving clause

4.1 Nothing in these Rules shall be interpreted as precluding the application of the Standard Minimum Rules for the Treatment of Prisoners, 12/ the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 17/ the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment 18/ or any other human rights instruments and standards recognized by the international community and relating to the treatment of offenders and the protection of their basic human rights.

II. PRE-TRIAL STAGE

5. Pre-trial dispositions

5.1 Where appropriate and compatible with the legal system, the police, the prosecution service or other agencies dealing with criminal cases should be empowered to discharge the offender if they consider that it is not necessary to proceed with the case for the protection of society, crime prevention or the promotion of respect for the law and the rights of victims. For the purpose of deciding upon the appropriateness of discharge or determination of proceedings, a set of established criteria shall be developed within each legal system. For minor cases the prosecutor may impose suitable non-custodial measures, as appropriate.

6. Avoidance of pre-trial detention

6.1 Pre-trial detention shall be used as a means of last resort in criminal proceedings, with due regard for the investigation of the alleged offence and for the protection of society and the victim.

17/ General Assembly resolution 40/33, annex.

18/ General Assembly resolution 43/173, annex.

6.2 Alternatives to pre-trial detention shall be employed at as early a stage as possible. Pre-trial detention shall last no longer than necessary to achieve the objectives stated under rule 5.1 and shall be administered humanely and with respect for the inherent dignity of human beings.

6.3 The offender shall have the right to appeal to a judicial or other competent independent authority in cases where pre-trial detention is employed.

III. TRIAL AND SENTENCING STAGE

7. Social inquiry reports

7.1 If the possibility of social inquiry reports exists, the judicial authority may avail itself of a report prepared by a competent, authorized official or agency. The report should contain social information on the offender that is relevant to the person's pattern of offending and current offences. It should also contain information and recommendations that are relevant to the sentencing procedure. The report shall be factual, objective and unbiased, with any expression of opinion clearly identified.

8. Sentencing dispositions

8.1 The judicial authority, having at its disposal a range of non-custodial measures, should take into consideration in making its decision the rehabilitative needs of the offender, the protection of society and the interests of the victim, who should be consulted whenever appropriate.

8.2 Sentencing authorities may dispose of cases in the following ways:

(a) Verbal sanctions, such as admonition, reprimand and warning;

(b) Conditional discharge;

(c) Status penalties;

(d) Economic sanctions and monetary penalties, such as fines and day-fines;

(e) Confiscation or an expropriation order;

(f) Restitution to the victim or a compensation order;

(g) Suspended or deferred sentence;

(h) Probation and judicial supervision;

(i) A community service order;

(j) Referral to an attendance centre;

(k) House arrest;

(l) Any other mode of non-institutional treatment;

(m) Some combination of the measures listed above.

IV. POST-SENTENCING STAGE

9. Post-sentencing dispositions

9.1 The competent authority shall have at its disposal a wide range of post-sentencing alternatives in order to avoid institutionalization and to assist offenders in their early reintegration into society.

9.2 Post-sentencing dispositions may include:

(a) Furlough and half-way houses;

(b) Work or education release;

(c) Various forms of parole;

(d) Remission;

(e) Pardon.

9.3 The decision on post-sentencing dispositions, except in the case of pardon, shall be subject to review by a judicial or other competent independent authority, upon application of the offender.

9.4 Any form of release from an institution to a non-custodial programme shall be considered at the earliest possible stage.

V. IMPLEMENTATION OF NON-CUSTODIAL MEASURES

10. Supervision

10.1 The purpose of supervision is to reduce reoffending and to assist the offender's integration into society in a way which minimizes the likelihood of a return to crime.

10.2 If a non-custodial measure entails supervision, the latter shall be carried out by a competent authority under the specific conditions prescribed by law.

10.3 Within the framework of a given non-custodial measure, the most suitable type of supervision and treatment should be determined for each individual case aimed at assisting the offender to work on his or her

offending. Supervision and treatment should be periodically reviewed and adjusted as necessary.

10.4 Offenders should, when needed, be provided with psychological, social and material assistance and with opportunities to strengthen links with the community and facilitate their reintegration into society.

11. Duration

11.1 The duration of a non-custodial measure shall not exceed the period established by the competent authority in accordance with the law.

11.2 Provision may be made for early termination of the measure if the offender has responded favourably to it.

12. Conditions

12.1 If the competent authority shall determine the conditions to be observed by the offender, it should take into account both the needs of society and the needs and rights of the offender and the victim.

12.2 The conditions to be observed shall be practical, precise and as few as possible, and be aimed at reducing the likelihood of an offender relapsing into criminal behaviour and of increasing the offender's chances of social integration, taking into account the needs of the victim.

12.3 At the beginning of the application of a non-custodial measure, the offender shall receive an explanation, orally and in writing, of the conditions governing the application of the measure, including the offender's obligations and rights.

12.4 The conditions may be modified by the competent authority under the established statutory provisions, in accordance with the progress made by the offender.

13. Treatment process

13.1 Within the framework of a given non-custodial measure, in appropriate cases, various schemes, such as case-work, group therapy, residential programmes and the specialized treatment of various categories of offenders, should be developed to meet the needs of offenders more effectively.

13.2 Treatment should be conducted by professionals who have suitable training and practical experience.

13.3 When it is decided that treatment is necessary, efforts should be made to understand the offender's background, personality, aptitude, intelligence, values and, especially, the circumstances leading to the commission of the offence.

13.4 The competent authority may involve the community and social support systems in the application of non-custodial measures.

13.5 Case-load assignments shall be maintained as far as practicable at a manageable level to ensure the effective implementation of treatment programmes.

13.6 For each offender, a case record shall be established and maintained by the competent authority.

14. Discipline and breach of conditions

14.1 A breach of the conditions to be observed by the offender may result in a modification or revocation of the non-custodial measure.

14.2 The modification or revocation of the non-custodial measure shall be made by the competent authority; this shall be done only after a careful examination of the facts adduced by both the supervising officer and the offender.

14.3 The failure of a non-custodial measure should not automatically lead to the imposition of a custodial measure.

14.4 In the event of a modification or revocation of the non-custodial measure, the competent authority shall attempt to establish a suitable alternative non-custodial measure. A sentence of imprisonment may be imposed only in the absence of other suitable alternatives.

14.5 The power to arrest and detain the offender under supervision in cases where there is a breach of the conditions shall be prescribed by law.

14.6 Upon modification or revocation of the non-custodial measure, the offender shall have the right to appeal to a judicial or other competent independent authority.

VI. STAFF

15. Recruitment

15.1 There shall be no discrimination in the recruitment of staff on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth or other status. The policy regarding staff recruitment should take into consideration national policies of affirmative action and reflect the diversity of the offenders to be supervised.

15.2 Persons appointed to apply non-custodial measures should be personally suitable and, whenever possible, have appropriate professional training and practical experience. Such qualifications shall be clearly specified.

15.3 To secure and retain qualified professional staff, appropriate service status, adequate salary and benefits commensurate with the nature of the work should be ensured and ample opportunities should be provided for professional growth and career development.

16. Staff training

16.1 The objective of training shall be to make clear to staff their responsibilities with regard to rehabilitating the offender, ensuring the offender's rights and protecting society. Training should also give staff an understanding of the need to co-operate in and co-ordinate activities with the agencies concerned.

16.2 Before entering duty, staff shall be given training that includes instruction on the nature of non-custodial measures, the purposes of supervision and the various modalities of the application of non-custodial measures.

16.3 After entering duty, staff shall maintain and improve their knowledge and professional capacity by attending in-service training and refresher courses. Adequate facilities shall be made available for that purpose.

VII. VOLUNTEERS AND OTHER COMMUNITY RESOURCES

17. Public participation

17.1 Public participation should be encouraged as it is a major resource and one of the most important factors in improving ties between offenders undergoing non-custodial measures and the family and community. It should complement the efforts of the criminal justice administration.

17.2 Public participation should be regarded as an opportunity for members of the community to contribute to the protection of their society.

18. Public understanding and co-operation

18.1 Government agencies, the private sector and the general public should be encouraged to support voluntary organizations that promote non-custodial measures.

18.2 Conferences, seminars, symposia and other activities should be regularly organized to stimulate awareness of the need for public participation in the application of non-custodial measures.

18.3 All forms of the mass media should be utilized to help to create a constructive public attitude, leading to activities conducive to a broader application of non-custodial treatment and the social integration of offenders.

18.4 Every effort should be made to inform the public of the importance of its role in the implementation of non-custodial measures.

19. Volunteers

19.1 Volunteers shall be carefully screened and recruited on the basis of their aptitude for and interest in the work involved. They shall be properly trained for the specific responsibilities to be discharged by them and shall have access to support and counselling from, and the opportunity to consult with, the competent authority.

19.2 Volunteers should encourage offenders and their families to develop meaningful ties with the community and a broader sphere of contact by providing counselling and other appropriate forms of assistance according to their capacity and the offenders' needs.

19.3 Volunteers shall be insured against accident, injury and public liability when carrying out their duties. They shall be reimbursed for authorized expenditures incurred in the course of their work. Public recognition should be extended to them for the services they render for the well-being of the community.

VIII. RESEARCH, PLANNING, POLICY FORMULATION AND EVALUATION

20. Research and planning

20.1 As an essential aspect of the planning process, efforts should be made to involve both public and private bodies in the organization and promotion of research on the non-custodial treatment of offenders.

20.2 Research on the problems that confront clients, practitioners, the community and policy makers should be carried out on a regular basis.

20.3 Research and information mechanisms should be built into the criminal justice system for the collection and analysis of data and statistics on the implementation of non-custodial treatment for offenders.

21. Policy formulation and programme development

21.1 Programmes for non-custodial measures should be systematically planned and implemented as an integral part of the criminal justice system within the national development process.

21.2 Regular evaluations should be carried out with a view to implementing non-custodial measures more effectively.

21.3 Periodic reviews should be conducted to assess the objectives, functioning and effectiveness of non-custodial measures.

22. Linkages with relevant agencies and activities

22.1 Suitable mechanisms should be evolved at various levels to facilitate the establishment of linkages between services responsible for non-custodial

measures, other branches of the criminal justice system, social development and welfare agencies, both governmental and non-governmental, in such fields as health, housing, education and labour, and the mass media.

23. International co-operation

23.1 Efforts shall be made to promote scientific co-operation between countries in the field of non-institutional treatment. Research, training, technical assistance and the exchange of information among Member States on non-custodial measures should be strengthened, through the United Nations regional and interregional institutes, in close collaboration with the Crime Prevention and Criminal Justice Branch of the United Nations Secretariat.

23.2 Comparative studies and the harmonization of legislative provisions should be furthered to expand the range of non-institutional options and facilitate their application across national frontiers, in accordance with the Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released. 19/

5. Basic principles for the treatment of prisoners

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Recommends to the General Assembly the adoption of the following draft resolution:

Basic principles for the treatment of prisoners

The General Assembly,

Bearing in mind the long-standing concern of the United Nations for the humanization of criminal justice and the protection of human rights,

Bearing in mind also that sound policies of crime prevention and control are essential to viable planning for economic and social development,

Recognizing that the Standard Minimum Rules for the Treatment of Prisoners, 20/ adopted by the First United Nations Congress on the Prevention

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19/ Sect. A, resolution 13.

20/ See Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.88.XIV.1), sect. G.

of Crime and the Treatment of Offenders, are of great value and influence in the development of penal policy and practice,

Considering the concern of previous congresses regarding the obstacles of various kinds that prevent the full implementation of the Rules,

Believing that the full implementation of the Rules would be facilitated by the articulation of the basic principles underlying them,

Recalling resolution 10 on the status of prisoners and resolution 17 on the human rights of prisoners adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling also the statement submitted at the tenth session of the Committee on Crime Prevention and Control by the International Prisoners' Aid Association, Caritas Internationalis, the Commission of the Churches on International Affairs of the World Council of Churches, the International Association of Educators for World Peace, the International Council for Adult Education, the International Federation of Human Rights, the International Union of Students, the World Alliance of Young Men's Christian Associations and the World Council of Indigenous Peoples, which are non-governmental organizations in consultative status with the Economic and Social Council, category II,

Recalling further the relevant recommendation contained in the report of the interregional preparatory meeting for the Eighth Congress on criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures, 21/

Aware that the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders coincides with International Literacy Year, proclaimed by the General Assembly in its resolution 42/104 of 7 December 1987,

Desiring to reflect the perspective noted by the Seventh Congress, namely, that the function of the criminal justice system is to contribute to safeguarding the basic values and norms of society,

Recognizing the usefulness of drafting a declaration on the human rights of prisoners,

Affirms the statement of basic principles for the treatment of prisoners, annexed to the present resolution, and requests the Secretary-General of the United Nations to draw it to the attention of Member States.

21/ A/CONF.144/IPM.4.

ANNEX

Statement of basic principles for the treatment of prisoners

1. All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.

2. There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3. It is, however, desirable to respect the religious beliefs and cultural precepts of the group to which prisoners belong, whenever local conditions so require.

4. The responsibility of prisons for the custody of prisoners and for the protection of society against crime shall be discharged in keeping with a State's other social objectives and its fundamental responsibilities for promoting the well-being and development of all members of society.

5. Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, 22/ the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and its Optional Protocol, 23/ and such other rights as are set out in other United Nations covenants.

6. All prisoners shall have the right to take part in cultural activities and education aimed at the full development of the human personality.

7. Efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.

8. Conditions shall be created enabling prisoners to undertake meaningful remunerated employment which will facilitate their reintegration into the country's labour market and permit them to contribute to their families' financial support and to their own.

9. Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.

10. With the participation and help of the community and social institution, and with due regard to the interests of victims, favourable

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22/ General Assembly resolution 217 A (III).

23/ General Assembly resolution 2200 A (XXI), annex.

conditions shall be created for the reintegration of the ex-prisoner into society under the best possible conditions.

11. The above principles shall be applied impartially.

6. United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Recommends to the General Assembly the adoption of the following draft resolution:

United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)

The General Assembly,

Bearing in mind the Universal Declaration of Human Rights, 24/ the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, 25/ and other international instruments pertaining to the rights and well-being of young persons, including relevant standards established by the International Labour Organisation,

Bearing in mind also the Declaration of the Rights of the Child, 26/ the Convention on the Rights of the Child, 27/ and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 28/

Recalling General Assembly resolution 40/33 of 29 November 1985, in which the Assembly adopted the United Nations Standard Minimum Rules for the Administration of Juvenile Justice recommended by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling also that the General Assembly, in its resolution 40/35 of 29 November 1985, called for the development of standards for the prevention of juvenile delinquency which would assist Member States in formulating and implementing specialized programmes and policies, emphasizing assistance, care and community involvement, and called upon the Economic and Social Council to

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24/ General Assembly resolution 217 A (III).

25/ General Assembly resolution 2200 A (XXI), annex.

26/ General Assembly resolution 1386 (XIV).

27/ General Assembly resolution 44/25, annex.

28/ General Assembly resolution 40/33, annex.

report to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on the progress achieved with respect to these standards, for review and action,

Recalling further that the Economic and Social Council, in resolution 1986/10 of 21 May 1986, requested the Eighth Congress to consider the draft standards for the prevention of juvenile delinquency, with the view to their adoption,

Recognizing the need to develop national, regional and international approaches and strategies for the prevention of juvenile delinquency,

Affirming that every child has basic human rights, including, in particular, access to free education,

Mindful of the large number of young persons who may or may not be in conflict with the law but who are abandoned, neglected, abused, exposed to drug abuse, in marginal circumstances, and who are in general at social risk,

Taking into account the benefits of progressive policies for the prevention of delinquency and the welfare of the community,

1. Notes with satisfaction the substantive work accomplished by the Committee on Crime Prevention and Control and the Secretary-General in the formulation of the guidelines for the prevention of juvenile delinquency;

2. Expresses appreciation for the valuable collaboration of the Arab Security Studies and Training Centre at Riyadh, in hosting the International Meeting of Experts on the Development of the United Nations Draft Guidelines for the Prevention of Juvenile Delinquency, held at Riyadh from 28 February to 1 March 1988, in co-operation with the United Nations Office at Vienna;

3. Adopts the United Nations Guidelines for the Prevention of Juvenile Delinquency contained in the annex to the present resolution, to be designated the Riyadh Guidelines;

4. Calls upon Member States, in their comprehensive crime prevention plans, to apply the Guidelines in national law, policy and practice and to bring the Guidelines to the attention of relevant authorities, including policy makers, juvenile justice personnel, educators, the mass media, practitioners and scholars;

5. Requests the Secretary-General and invites Member States to ensure the widest possible dissemination of the text of the Guidelines in all of the official languages of the United Nations;

6. Further requests the Secretary-General and invites all relevant United Nations offices and interested institutions, in particular, the United Nations Children's Fund, as well as individual experts, to make a concerted effort to promote the application of the Guidelines;

7. Also requests the Secretary-General to intensify research on particular situations of social risk and on the exploitation of children, including the use of children as instruments of criminality, with a view to developing comprehensive countermeasures and to report to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders thereon;

8. Requests the Secretary-General to issue a composite manual on juvenile justice standards, containing the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), the United Nations Guidelines on the Prevention of Delinquency (The Riyadh Guidelines), and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and a set of full commentaries on their provisions;

9. Urges all relevant bodies within the United Nations system to collaborate with the Secretary-General in taking appropriate measures to ensure the implementation of the present resolution;

10. Invites the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights to consider this new international instrument with a view to promoting the application of its provisions;

11. Invites Member States to support strongly the organization of technical and scientific workshops, and pilot and demonstration projects on practical issues and policy matters relating to the application of the provisions of the Guidelines and to the establishment of concrete measures for community-based services designed to respond to the special needs, problems and concerns of young persons, and requests the Secretary-General to co-ordinate efforts in this respect;

12. Also invites Member States to inform the Secretary-General on the implementation of the Guidelines and to report regularly to the Committee on Crime Prevention and Control on the results achieved;

13. Recommends that the Committee on Crime Prevention and Control request the Ninth Congress to review the progress made in the promotion and application of the Riyadh Guidelines and of the recommendations contained in the present resolution, under a separate agenda item on juvenile justice and keep the matter under constant review.

ANNEX

United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)

I. FUNDAMENTAL PRINCIPLES

1. The prevention of juvenile delinquency is an essential part of crime prevention in society. By engaging in lawful, socially useful activities and adopting a humanistic orientation towards society and outlook on life, young persons can develop non-criminogenic attitudes.

2. The successful prevention of juvenile delinquency requires efforts on the part of the entire society to ensure the harmonious development of adolescents, with respect for and promotion of their personality from early childhood.

3. For the purposes of the interpretation of these guidelines, a child-centred orientation should be pursued. Young persons should have an active role and partnership within society and should not be considered as mere objects of socialization or control.

4. In the implementation of these Guidelines, in accordance with national legal systems, the well-being of young persons from their early childhood should be the focus of any preventive programme.

5. The need for and importance of progressive delinquency prevention policies and the systematic study and the elaboration of measures should be recognized. These should avoid criminalizing and penalizing a child for behaviour that does not cause serious damage to the development of the child or harm to others. Such policies and measures should involve:

(a) The provision of opportunities, in particular educational opportunities, to meet the varying needs of young persons and to serve as a supportive framework for safeguarding the personal development of all young persons, particularly those who are demonstrably endangered or at social risk and are in need of special care and protection;

(b) Specialized philosophies and approaches for delinquency prevention, on the basis of laws, processes, institutions, facilities and a service delivery network aimed at reducing the motivation, need and opportunity for, or conditions giving rise to, the commission of infractions;

(c) Official intervention to be pursued primarily in the overall interest of the young person and guided by fairness and equity;

(d) Safeguarding the well-being, development, rights and interests of all young persons;

(e) Consideration that youthful behaviour or conduct that does not conform to overall social norms and values is often part of the maturation and growth process and tends to disappear spontaneously in most individuals with the transition to adulthood;

(f) Awareness that, in the predominant opinion of experts, labelling a young person as "deviant", "delinquent" or "pre-delinquent" often contributes to the development of a consistent pattern of undesirable behaviour by young persons.

6. Community-based services and programmes should be developed for the prevention of juvenile delinquency, particularly where no agencies have yet been established. Formal agencies of social control should only be utilized as a means of last resort.

II. SCOPE OF THE GUIDELINES

7. These Guidelines should be interpreted and implemented within the broad framework of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Declaration of the Rights of the Child and the Convention on the Rights of the Child, and in the context of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, as well as other instruments and norms relating to the rights, interests and well-being of all children and young persons.

8. These Guidelines should also be implemented in the context of the economic, social and cultural conditions prevailing in each Member State.

III. GENERAL PREVENTION

9. Comprehensive prevention plans should be instituted at every level of government and include the following:

(a) In-depth analyses of the problem and inventories of programmes, services, facilities and resources available;

(b) Well-defined responsibilities for the qualified agencies, institutions and personnel involved in preventive efforts;

(c) Mechanisms for the appropriate co-ordination of prevention efforts between governmental and non-governmental agencies;

(d) Policies, programmes and strategies based on prognostic studies to be continuously monitored and carefully evaluated in the course of implementation;

(e) Methods for effectively reducing the opportunity to commit delinquent acts;

(f) Community involvement through a wide range of services and programmes;

(g) Close interdisciplinary co-operation between national, state, provincial and local governments, with the involvement of the private sector, representative citizens of the community to be served, and labour, child-care, health education, social, law enforcement and judicial agencies in taking concerted action to prevent juvenile delinquency and youth crime;

(h) Youth participation in delinquency prevention policies and processes, including recourse to community resources, youth self-help, and victim compensation and assistance programmes;

(i) Specialized personnel at all levels.

IV. SOCIALIZATION PROCESSES

10. Emphasis should be placed on preventive policies facilitating the successful socialization and integration of all children and young persons, in particular through the family, the community, peer groups, schools, vocational training and the world of work, as well as through voluntary organizations. Due respect should be given to the proper personal development of children and young persons, and they should be accepted as full and equal partners in socialization and integration processes.

A. Family

11. Every society should place a high priority on the needs and well-being of the family and of all its members.

12. Since the family is the central unit responsible for the primary socialization of children, governmental and social efforts to preserve the integrity of the family, including the extended family, should be pursued. The society has a responsibility to assist the family in providing care and protection and in ensuring the physical and mental well-being of children. Adequate arrangements including day-care should be provided.

13. Governments should establish policies that are conducive to the bringing up of children in stable and settled family environments. Families in need of assistance in the resolution of conditions of instability or conflict should be provided with requisite services.

14. Where a stable and settled family environment is lacking and when community efforts to assist parents in this regard have failed and the extended family cannot fulfil this role, alternative placements, including foster care and adoption, should be considered. Such placements should replicate, to the extent possible, a stable and settled family environment, while, at the same time, establishing a sense of permanency for children, thus avoiding problems associated with "foster drift".

15. Special attention should be given to children of families affected by problems brought about by rapid and uneven economic, social and cultural change, in particular the children of indigenous, migrant and refugee families. As such changes may disrupt the social capacity of the family to secure the traditional rearing and nurturing of children, often as a result of role and culture conflict, innovative and socially constructive modalities for the socialization of children have to be designed.

16. Measures should be taken and programmes developed to provide families with the opportunity to learn about parental roles and obligations as regards child development and child care, promoting positive parent-child relationships, sensitizing parents to the problems of children and young persons and encouraging their involvement in family and community-based activities.

17. Governments should take measures to promote family cohesion and harmony and to discourage the separation of children from their parents, unless circumstances affecting the welfare and future of the child leave no viable alternative.

18. It is important to emphasize the socialization function of the family and extended family; it is also equally important to recognize the future role, responsibilities, participation and partnership of young persons in society.

19. In ensuring the right of the child to proper socialization, Governments and other agencies should rely on existing social and legal agencies, but, whenever traditional institutions and customs are no longer effective, they should also provide and allow for innovative measures.

B. Education

20. Governments are under an obligation to make public education accessible to all young persons.

21. Education systems should, in addition to their academic and vocational training activities, devote particular attention to the following:

(a) Teaching of basic values and developing respect for the child's own cultural identity and patterns, for the social values of the country in which the child is living, for civilizations different from the child's own and for human rights and fundamental freedoms;

(b) Promotion and development of the personality, talents and mental and physical abilities of young people to their fullest potential;

(c) Involvement of young persons as active and effective participants in, rather than mere objects of, the educational process;

(d) Undertaking activities that foster a sense of identity with and of belonging to the school and the community;

(e) Encouragement of young persons to understand and respect diverse views and opinions, as well as cultural and other differences;

(f) Provision of information and guidance regarding vocational training, employment opportunities and career development;

(g) Provision of positive emotional support to young persons and the avoidance of psychological maltreatment;

(h) Avoidance of harsh disciplinary measures, particularly corporal punishment.

22. Educational systems should seek to work together with parents, community organizations and agencies concerned with the activities of young persons.

23. Young persons and their families should be informed about the law and their rights and responsibilities under the law, as well as the universal value system, including United Nations instruments.

24. Educational systems should extend particular care and attention to young persons who are at social risk. Specialized prevention programmes and educational materials, curricula, approaches and tools should be developed and fully utilized.

25. Special attention should be given to comprehensive policies and strategies for the prevention of alcohol, drug and other substance abuse by young persons. Teachers and other professionals should be equipped and trained to prevent and deal with these problems. Information on the use and abuse of drugs, including alcohol, should be made available to the student body.

26. Schools should serve as resource and referral centres for the provision of medical, counselling and other services to young persons, particularly those with special needs and suffering from abuse, neglect, victimization and exploitation.

27. Through a variety of educational programmes, teachers and other adults and the student body should be sensitized to the problems, needs and perceptions of young persons, particularly those belonging to underpriviledged, disadvantaged, ethnic or other minority and low-income groups.

28. School systems should attempt to meet and promote the highest professional and educational standards with respect to curricula, teaching and learning methods and approaches, and the recruitment and training of qualified teachers. Regular monitoring and assessment of performance by the appropriate professional organizations and authorities should be ensured.

29. School systems should plan, develop and implement extra-curricular activities of interest to young persons, in co-operation with community groups.

30. Special assistance should be given to children and young persons who find it difficult to comply with attendance codes, and to "drop-outs".

31. Schools should promote policies and rules that are fair and just; students should be represented in school policy, including policy on discipline, and decision-making.

C. Community

32. Community-based services and programmes which respond to the special needs, problems, interests and concerns of young persons and which offer appropriate counselling and guidance to young persons and their families should be developed, or strengthened where they exist.

33. Communities should provide, or strengthen where they exist, a wide range of community-based support measures for young persons, including community development centres, recreational facilities and services to respond to the special problems of children who are at social risk. In providing these helping measures, respect for individual rights should be ensured.

34. Special facilities should be set up to provide adequate shelter for young persons who are no longer able to live at home or who do not have homes to live in.

35. A range of services and helping measures should be provided to deal with the difficulties experienced by young persons in the transition to adulthood. Such services should include special programmes for young drug abusers which emphasize care, counselling, assistance and therapy-oriented interventions.

36. Voluntary organizations providing services for young persons should be given financial and other support by Governments and other institutions.

37. Youth organizations should be created or strengthened at the local level and given full participatory status in the management of community affairs. These organizations should encourage youth to organize collective and voluntary projects, particularly projects aimed at helping young persons in need of assistance.

38. Government agencies should take special responsibility and provide necessary services for homeless or street children; information about local facilities, accommodation, employment and other forms and sources of help should be made readily available to young persons.

39. A wide range of recreational facilities and services of particular interest to young persons should be established and made easily accessible to them.

D. Mass media

40. The mass media should be encouraged to ensure that young persons have access to information and material from a diversity of national and international sources.

41. The mass media should be encouraged to portray the positive contribution of young persons to society.

42. The mass media should be encouraged to disseminate information on the existence of services, facilities and opportunities for young persons in society.

43. The mass media generally, and the television and film media in particular, should be encouraged to minimize the level of pornography, drugs and violence portrayed and to display violence and exploitation disfavourably, as well as to avoid demeaning and degrading presentations, especially of children, women and interpersonal relations, and to promote egalitarian principles and roles.

44. The mass media should be aware of its extensive social role and responsibility, as well as its influence, in communications relating to youthful drug and alcohol abuse. It should use its power for drug abuse prevention by relaying consistent messages through a balanced approach. Effective drug awareness campaigns at all levels should be promoted.

V. SOCIAL POLICY

45. Government agencies should give high priority to plans and programmes for young persons and should provide sufficient funds and other resources for the effective delivery of services, facilities and staff for adequate medical and mental health care, nutrition, housing and other relevant services, including drug and alcohol abuse prevention and treatment, ensuring that such resources reach and actually benefit young persons.

46. The institutionalization of young persons should be a measure of last resort and for the minimum necessary period, and the best interests of the young person should be of paramount importance. Criteria authorizing formal intervention of this type should be strictly defined and limited to the following situations: (a) where the child or young person has suffered harm that has been inflicted by the parents or guardians; (b) where the child or young person has been sexually, physically or emotionally abused by the parents or guardians; (c) where the child or young person has been neglected, abandoned or exploited by the parents or guardians; (d) where the child or young person is threatened by physical or moral danger due to the behaviour of the parents or guardians; and (e) where a serious physical or psychological danger to the child or young person has manifested itself in his or her own behaviour and neither the parents, guardians or the juvenile him or herself nor non-residential community services can meet the danger by means other than institutionalization.

47. Government agencies should provide young persons with the opportunity of continuing in full-time education, funded by the State where parents or guardians are unable to support the young persons, and of receiving work experience.

48. Programmes to prevent delinquency should be planned and developed on the basis of reliable, scientific research findings, and periodically monitored, evaluated and adjusted accordingly.

49. Scientific information should be disseminated to the professional community and to the public at large about the sort of behaviour or situation which indicates or may result in physical and psychological victimization, harm and abuse, as well as exploitation, of young persons.

50. Generally, participation in plans and programmes should be voluntary. Young persons themselves should be involved in their formulation, development and implementation.

51. Governments should begin or continue to explore, develop and implement policies, measures and strategies within and outside the criminal justice system to prevent domestic violence against and affecting young persons and to ensure fair treatment to these victims of domestic violence.

VI. LEGISLATION AND JUVENILE JUSTICE ADMINISTRATION

52. Governments should enact and enforce specific laws and procedures to promote and protect the rights and well-being of all young persons.

53. Legislation preventing the victimization, abuse, exploitation and the use for criminal activities of children and young persons should be enacted and enforced.

54. No child or young person should be subjected to harsh or degrading correction or punishment measures at home, in schools or in any other institutions.

55. Legislation and enforcement aimed at restricting and controlling accessibility of weapons of any sort to children and young persons should be pursued.

56. In order to prevent further stigmatization, victimization and criminalization of young persons, legislation should be enacted to ensure that any conduct not considered an offence or penalized if committed by an adult is not considered an offence or penalized if committed by a young person.

57. Consideration should be given to the establishment of an office of ombudsman or similar independent organ, which would ensure that the status, rights and interests of young persons are upheld and that proper referral to available services is made. The ombudsman or other organ designated would also supervise the implementation of the Riyadh Guidelines, the Beijing Rules and the Rules for the Protection of Juveniles Deprived of their Liberty. The ombudsman or other organ would, at regular intervals, publish a report on the progress made and on the difficulties encountered in the implementation of the instrument. Child advocacy services should also be established.

58. Law enforcement and other relevant personnel, of both sexes, should be trained to respond to the special needs of young persons and should be familiar with and use, to the maximum extent possible, programmes and referral possibilities for the diversion of young persons from the justice system.

59. Legislation should be enacted and strictly enforced to protect children and young persons from drug abuse and drug traffickers.

VII. RESEARCH, POLICY DEVELOPMENT AND CO-ORDINATION

60. Efforts should be made and appropriate mechanisms established to promote, on both a multidisciplinary and an intradisciplinary basis, interaction and co-ordination between economic, social, educational and health agencies and services, the justice system, youth, community and development agencies and other relevant institutions.

61. The exchange of information, experience and expertise gained through projects, programmes, practices and initiatives relating to youth crime, delinquency prevention and juvenile justice should be intensified at the national, regional and international levels.

62. Regional and international co-operation on matters of youth crime, delinquency prevention and juvenile justice involving practitioners, experts and decision makers should be further developed and strengthened.

63. Technical and scientific co-operation on practical and policy-related matters, particularly in training, pilot and demonstration projects, and on specific issues concerning the prevention of youth crime and juvenile delinquency should be strongly supported by all Governments, the United Nations system and other concerned organizations.

64. Collaboration should be encouraged in undertaking scientific research with respect to effective modalities for youth crime and juvenile delinquency prevention and the findings of such research should be widely disseminated and evaluated.

65. Appropriate United Nations bodies, institutes, agencies and offices should pursue close collaboration and co-ordination on various questions related to children, juvenile justice and youth crime and juvenile delinquency prevention.

66. On the basis of these Guidelines, the United Nations Secretariat, in co-operation with interested institutions, should play an active role in the conduct of research, scientific collaboration, the formulation of policy options and the review and monitoring of their implementation, and should serve as a source of reliable information on effective modalities for delinquency prevention.

7. United Nations Rules for the Protection of Juveniles Deprived of their Liberty

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Recommends to the General Assembly the adoption of the following draft resolution:

United Nations Rules for the Protection of Juveniles Deprived of their Liberty

The General Assembly,

Bearing in mind the Universal Declaration of Human Rights, 29/ the International Covenant on Civil and Political Rights, 30/ the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 31/ and the Convention on the Rights of the Child, 32/ as well as other international instruments relating to the protection of the rights and well-being of young persons,

Bearing in mind also the Standard Minimum Rules for the Treatment of Prisoners 33/ adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Bearing in mind also the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, approved by the General Assembly in its resolution 43/173 of 9 December 1988,

Recalling the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 34/

Recalling also resolution 21 of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 35/ in which the Congress called for the development of United Nations rules for the protection of juveniles deprived of their liberty,

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29/ General Assembly resolution 217 A (III).

30/ General Assembly resolution 2200 A (XXI), annex.

31/ General Assembly resolution 39/46, annex.

32/ General Assembly resolution 44/25, annex.

33/ See Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.88.XIV.1), sect. G.

34/ General Assembly resolution 40/33, annex.

35/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: Report of the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. E.

Recalling further that the Economic and Social Council, in resolution 1986/10, section II, of 21 May 1986, requested the Secretary-General to report on progress achieved in respect of the rules to the Committee on Crime Prevention and Control at its tenth session and requested the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to consider the proposed rules with a view to their adoption,

Alarmed at the conditions and circumstances under which juveniles are being deprived of their liberty world wide,

Aware that juveniles deprived of their liberty are highly vulnerable to abuse, victimization and the violation of their rights,

Concerned that many systems do not differentiate between adults and juveniles at various stages of justice administration and that juveniles are therefore being held in gaols and facilities with adults,

1. Affirms that the placement of a juvenile in an institution should always be a disposition of last resort and for the minimum necessary period;

2. Recognizes that, because of their high vulnerability, juveniles deprived of their liberty require special attention and protection and that their rights and well-being should be guaranteed during and after the period when they are deprived of their liberty;

3. Notes with appreciation the valuable work of the United Nations Secretariat and the collaboration which has been established between the Secretariat and experts, practitioners, intergovernmental organizations, the non-governmental community, particulary Amnesty International, Defence for Children International and Rädda Barnen (Swedish Save the Children), and scientific institutions concerned with children's rights and juvenile justice in developing the rules;

4. Adopts the United Nations Rules for the Protection of Juveniles Deprived of their Liberty contained in the annex to the present resolution;

5. Calls upon the Committee on Crime Prevention and Control to formulate measures for the effective implementation of the Rules, with the assistance of the United Nations institutes on the prevention of crime and the treatment of offenders;

6. Invites Member States to adapt, wherever necessary, their national legislation, policies and practices, particularly in training all categories of juvenile justice personnel, to the spirit of the Rules, and to bring them to the attention of relevant authorities and the public in general;

7. Also invites Member States to inform the Secretary-General of their efforts to apply the Rules in law, policy and practice and to report regularly to the Committee on Crime Prevention and Control on the results achieved in their implementation;

8. Requests the Secretary-General and invites Member States to ensure the widest possible dissemination of the text of the Rules in all of the official languages of the United Nations;

9. Requests the Secretary-General to conduct comparative research, pursue the requisite collaboration and to devise strategies to deal with the different categories of serious and persistent young offenders and prepare a policy-oriented report thereon to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

10. Requests the Secretary-General and urges Member States to allocate the necessary resources to ensure the successful application and implementation of the Rules, in particular in the areas of recruitment, training and exchange of all categories of juvenile justice personnel;

11. Urges all relevant bodies of the United Nations system, in particular the United Nations Children's Fund, the regional commissions and specialized agencies, the United Nations institutes for the prevention of crime and the treatment of offenders and all concerned intergovernmental and non-governmental organizations, to collaborate with the Secretary-General and to take the necessary measures to ensure a concerted and sustained effort within their respective fields of technical competence to promote the application of the Rules;

12. Invites the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights to consider this new international instrument, with a view to promoting the application of its provisions;

13. Requests the Ninth Congress to review the progress made on the promotion and application of the Rules and on the recommendations contained in the present resolution, under a separate agenda item on juvenile justice.

ANNEX

United Nations Rules for the Protection of Juveniles Deprived of their Liberty

I. FUNDAMENTAL PERSPECTIVES

1. The juvenile justice system should uphold the rights and safety and promote the physical and mental well-being of juveniles. Imprisonment should be used as a last resort.

2. Juveniles should only be deprived of their liberty in accordance with the principles and procedures set forth in these Rules and in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice. Deprivation of the liberty of a juvenile should be a disposition of last resort and for the minimum necessary period and should be limited to exceptional cases. The length of the sanction should be determined by the judicial authority, without precluding the possibility of his or her early release.

3. The Rules are intended to establish minimum standards accepted by the United Nations for the protection of juveniles deprived of their liberty in all forms, consistent with human rights and fundamental freedoms, and with a view to counteracting the detrimental effects of all types of detention and to fostering integration in society.

4. The Rules should be applied impartially, without discrimination of any kind as to race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability. The religious and cultural beliefs, practices and moral concepts of the juvenile should be respected.

5. The Rules are designed to serve as convenient standards of reference and to provide encouragement and guidance to professionals involved in the management of the juvenile justice system.

6. The Rules should be made readily available to juvenile justice personnel in their national languages. Juveniles who are not fluent in the language spoken by the personnel of the detention facility should have the right to the services of an interpreter free of charge whenever necessary, in particular during medical examinations and disciplinary proceedings.

7. Where appropriate, States should incorporate the Rules into their legislation or amend it accordingly and provide effective remedies for their breach, including compensation when injuries are inflicted on juveniles. States should also monitor the application of the Rules.

8. The competent authorities should constantly seek to increase the awareness of the public that the care of detained juveniles and preparation for their return to society is a social service of great importance, and to this end active steps should be taken to foster open contacts between the juveniles and the local community.

9. Nothing in the Rules should be interpreted as precluding the application of the relevant United Nations and human rights instruments and standards, recognized by the international community, that are more conducive to the rights, care and protection of juveniles, children and all young persons.

10. In the event that the practical application of particular Rules contained in Parts II to V, inclusive, of these Rules presents any conflict with the Rules contained in Part I, compliance with the latter shall be regarded as the predominant requirement.

II. SCOPE AND APPLICATION OF THE RULES

11. For the purposes of the Rules, the following definitions should apply:

(a) A juvenile is every person under the age of 18. The age limit below which it should not be permitted to deprive a child of his or her liberty should be determined by law;

(b) The deprivation of liberty means any form of detention or imprisonment or the placement of a person in another public or private custodial setting from which this person is not permitted to leave at will by order of any judicial, administrative or other public authority.

12. The deprivation of liberty should be effected in conditions and circumstances which ensure respect for the human rights of juveniles. Juveniles detained in facilities should be guaranteed the benefit of meaningful activities and programmes which would serve to promote and sustain their health and self-respect, to foster their sense of responsibility and encourage those attitudes and skills that will assist them in developing their potential as members of society.

13. Juveniles deprived of their liberty shall not for any reason related to their status be denied the civil, economic, political, social or cultural rights to which they are entitled under national or international law, and which are compatible with the deprivation of liberty, such as social security rights and benefits, freedom of association and, upon reaching the minimum age established by law, the right to marry.

14. The protection of the individual rights of juveniles with special regard to the legality of the execution of the detention measures shall be ensured by the competent authority, while the objectives of social integration should be secured by regular inspections and other means of control carried out, according to international standards, national laws and regulations, by a duly constituted body authorized to visit the juveniles and not belonging to the detention facility.

15. The Rules apply to all types and forms of detention facilities in which juveniles are deprived of their liberty. Parts I, II, IV and V of the Rules apply to all detention facilities and institutional settings in which juveniles are detained, and Part III applies specifically to juveniles under arrest or awaiting trial.

16. The Rules shall be implemented in the context of the economic, social and cultural conditions prevailing in each Member State.

III. JUVENILES UNDER ARREST OR AWAITING TRIAL

17. Juveniles who are detained under arrest or awaiting trial ("untried") are presumed innocent and shall be treated as such. Detention before trial shall be avoided to the extent possible and limited to exceptional circumstances. Therefore all efforts shall be made to apply alternative measures. When preventive detention is nevertheless used, juvenile courts and investigative bodies shall give the highest priority to the most expeditious processing of such cases to ensure the shortest possible duration of detention. Untried detainees should be separated from convicted juveniles.

18. The conditions under which an untried juvenile is detained should be consistent with the rules set out below, with additional specific provisions as are necessary and appropriate, given the requirements of the presumption of

innocence, the duration of the detention and the legal status and circumstances of the juvenile. These provisions would include, but not necessarily be restricted to, the following:

(a) Juveniles should have the right of legal counsel and be enabled to apply for free legal aid, where such aid is available, and to communicate regularly with their legal advisers. Privacy and confidentiality shall be ensured for such communications;

(b) Juveniles should be provided, where possible, with opportunities to pursue work, with remuneration, and continue education or training, but should not be required to do so. Work, education or training should not cause the continuation of the detention;

(c) Juveniles should receive and retain materials for their leisure and recreation as are compatible with the interests of the administration of justice.

IV. THE MANAGEMENT OF JUVENILE FACILITIES

A. Records

19. All reports, including legal records, medical records and records of disciplinary proceedings, and all other documents relating to the form, content and details of treatment, should be placed in a confidential individual file, which should be kept up to date, accessible only to authorized persons and classified in such a way as to be easily understood. Where possible, every juvenile should have the right to contest any fact or opinion contained in his or her file so as to permit rectification of inaccurate, unfounded or unfair statements. In order to exercise this right, there should be procedures that allow an appropriate third party to have access to and to consult the file on request. Upon release, the records of juveniles shall be sealed, and, at an appropriate time, expunged.

20. No juvenile should be received in any detention facility without a valid commitment order of a judicial, administrative or other public authority. The details of this order should be immediately entered in the register. No juvenile should be detained in any facility where there is no such register.

B. Admission, registration, movement and transfer

21. In every place where juveniles are detained, a complete and secure record of the following information should be kept concerning each juvenile received:

(a) Information on the identity of the juvenile;

(b) The fact of and reasons for commitment and the authority therefor;

(c) The day and hour of admission, transfer and release;

(d) Details of the notifications to parents and guardians on every admission, transfer or release of the juvenile in their care at the time of commitment;

(e) Details of known physical and mental health problems, including drug and alcohol abuse.

22. The above-mentioned information on admission, place, transfer and release should be provided without delay to the parents and guardians or closest relative of the juvenile concerned.

23. As soon as possible after reception, full reports and relevant information on the personal situation and circumstances of each juvenile should be drawn up and submitted to the administration.

24. On admission, all juveniles shall be given a copy of the rules governing the detention facility and a written description of their rights and obligations in a language they can understand, together with the address of the authorities competent to receive complaints, as well as the address of public or private agencies and organizations which provide legal assistance. For those juveniles who are illiterate or who cannot understand the language in the written form, the information should be conveyed in a manner enabling full comprehension.

25. All juveniles should be helped to understand the regulations governing the internal organization of the facility, the goals and methodology of the care provided, the disciplinary requirements and procedures, other authorized methods of seeking information and of making complaints, and all such other matters as are necessary to enable them to understand fully their rights and obligations during detention.

26. The transport of juveniles should be carried out at the expense of the administration in conveyances with adequate ventilation and light, in conditions that should in no way subject them to hardship or indignity. Juveniles should not be transferred from one facility to another arbitrarily.

C. Classification and placement

27. As soon as possible after the moment of admission, each juvenile should be interviewed, and a psychological and social report identifying any factors relevant to the specific type and level of care and programme required by the juvenile should be prepared. This report, together with the report prepared by a medical officer who has examined the juvenile upon admission, should be forwarded to the director for purposes of determining the most appropriate placement for the juvenile within the facility and the specific type and level of care and programme required and to be pursued. When special rehabilitative treatment is required, and the length of stay in the facility permits, trained personnel of the facility should prepare a written, individualized treatment plan specifying treatment objectives and time-frame and the means, stages and delays with which the objectives should be approached.

28. The detention of juveniles should only take place under conditions that take full account of their particular needs, status and special requirements according to their age, personality, sex and type of offence, as well as mental and physical health, and which ensure their protection from harmful influences and risk situations. The principal criterion for the separation of different categories of juveniles deprived of their liberty should be the provision of the type of care best suited to the particular needs of the individuals concerned and the protection of their physical, mental and moral integrity and well-being.

29. In all detention facilities juveniles should be separated from adults, unless they are members of the same family. Under controlled conditions, juveniles may be brought together with carefully selected adults as part of a special programme that has been shown to be beneficial for the juveniles concerned.

30. Open detention facilities for juveniles should be established. Open detention facilities are those with no or minimal security measures. The population in such detention facilities should be as small as possible. The number of juveniles detained in closed facilities should be small enough to enable individualized treatment. Detention facilities for juveniles should be decentralized and of such size as to facilitate access and contact between the juveniles and their families. Small-scale detention facilities should be established and integrated into the social, economic and cultural environment of the community.

D. Physical environment and accommodation

31. Juveniles deprived of their liberty have the right to facilities and services that meet all the requirements of health and human dignity.

32. The design of detention facilities for juveniles and the physical environment should be in keeping with the rehabilitative aim of residential treatment, with due regard to the need of the juvenile for privacy, sensory stimuli, opportunities for association with peers and participation in sports, physical exercise and leisure-time activities. The design and structure of juvenile detention facilities should be such as to minimize the risk of fire and to ensure safe evacuation from the premises. There should be an effective alarm system in case of fire, as well as formal and drilled procedures to ensure the safety of the juveniles. Detention facilities should not be located in areas where there are known health or other hazards or risks.

33. Sleeping accommodation should normally consist of small group dormitories or individual bedrooms, while bearing in mind local standards. During sleeping hours there should be regular, unobtrusive supervision of all sleeping areas, including individual rooms and group dormitories, in order to ensure the protection of each juvenile. Every juvenile should, in accordance with local or national standards, be provided with separate and sufficient bedding, which should be clean when issued, kept in good order and changed often enough to ensure cleanliness.

34. Sanitary installations should be so located and of a sufficient standard to enable every juvenile to comply, as required, with their physical needs in privacy and in a clean and decent manner.

35. The possession of personal effects is a basic element of the right to privacy and essential to the psychological well-being of the juvenile. The right of every juvenile to possess personal effects and to have adequate storage facilities for them should be fully recognized and respected. Personal effects that the juvenile does not choose to retain or that are confiscated should be placed in safe custody. An inventory thereof should be signed by the juvenile. Steps should be taken to keep them in good condition. All such articles and money should be returned to the juvenile on release, except in so far as he or she has been authorized to spend money or send such property out of the facility. If a juvenile receives or is found in possession of any medicine, the medical officer should decide what use should be made of it.

36. To the extent possible juveniles should have the right to use their own clothing. Detention facilities should ensure that each juvenile has personal clothing suitable for the climate and adequate to ensure good health, and which should in no manner be degrading or humiliating. Juveniles removed from or leaving a facility for any purpose should be allowed to wear their own clothing.

37. Every detention facility shall ensure that every juvenile receives food that is suitably prepared and presented at normal meal times and of a quality and quantity to satisfy the standards of dietetics, hygiene and health and, as far as possible, religious and cultural requirements. Clean drinking water should be available to every juvenile at any time.

E. Education, vocational training and work

38. Every juvenile of compulsory school age has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society. Such education should be provided outside the detention facility in community schools wherever possible and, in any case, by qualified teachers through programmes integrated with the education system of the country so that, after release, juveniles may continue their education without difficulty. Special attention should be given by the administration of the detention facilities to the education of juveniles of foreign origin or with particular cultural or ethnic needs. Juveniles who are illiterate or have cognitive or learning difficulties should have the right to special education.

39. Juveniles above compulsory school age who wish to continue their education should be permitted and encouraged to do so, and every effort should be made to provide them with access to appropriate educational programmes.

40. Diplomas or educational certificates awarded to juveniles while in detention should not indicate in any way that the juvenile has been institutionalized.

41. Every detention facility should provide access to a library that is adequately stocked with both instructional and recreational books and periodicals suitable for the juveniles, who should be encouraged and enabled to make full use of it.

42. Every juvenile should have the right to receive vocational training in occupations likely to prepare him or her for future employment.

43. With due regard to proper vocational selection and to the requirements of institutional administration, juveniles should be able to choose the type of work they wish to perform.

44. All protective national and international standards applicable to child labour and young workers should apply to juveniles deprived of their liberty.

45. Wherever possible, juveniles should be provided with the opportunity to perform remunerated labour, if possible within the local community, as a complement to the vocational training provided in order to enhance the possibility of finding suitable employment when they return to their communities. The type of work should be such as to provide appropriate training that will be of benefit to the juveniles following release. The organization and methods of work offered in detention facilities should resemble as closely as possible those of similar work in the community, so as to prepare juveniles for the conditions of normal occupational life.

46. Every juvenile who performs work should have the right to an equitable remuneration. The interests of the juveniles and of their vocational training should not be subordinated to the purpose of making a profit for the detention facility or a third party. Part of the earnings of a juvenile should normally be set aside to constitute a savings fund to be handed over to the juvenile on release. The juvenile should have the right to use the remainder of those earnings to purchase articles for his or her own use or to indemnify the victim injured by his or her offence or to send it to his or her family or other persons outside the detention facility.

F. Recreation

47. Every juvenile should have the right to a suitable amount of time for daily free exercise, in the open air whenever weather permits, during which time appropriate recreational and physical training should normally be provided. Adequate space, installations and equipment should be provided for these activities. Every juvenile should have additional time for daily leisure activities, part of which should be devoted, if the juvenile so wishes, to arts and crafts skill development. The detention facility should ensure that each juvenile is physically able to participate in the available programmes of physical education. Remedial physical education and therapy should be offered, under medical supervision, to juveniles needing it.

G. Religion

48. Every juvenile should be allowed to satisfy the needs of his or her religious and spiritual life, in particular by attending the services or meetings provided in the detention facility or by conducting his or her own services and having possession of the necessary books or items of religious observance and instruction of his or her denomination. If a detention facility contains a sufficient number of juveniles of a given religion, one or more qualified representatives of that religion should be appointed or approved and allowed to hold regular services and to pay pastoral visits in private to juveniles at their request. Every juvenile should have the right to receive visits from a qualified representative of any religion of his or her choice, as well as the right not to participate in religious services and freely to decline religious education, counselling or indoctrination.

H. Medical care

49. Every juvenile shall receive adequate medical care, both preventive and remedial, including dental, ophthalmological and mental health care, as well as pharmaceutical products and special diets as medically indicated. All such medical care should, where possible, be provided to detained juveniles through the appropriate health facilities and services of the community in which the detention facility is located, in order to prevent stigmatization of the juvenile and promote self-respect and integration into the community.

50. Every juvenile has a right to be examined by a physician immediately upon admission to a detention facility, for the purpose of recording any evidence of prior ill-treatment and identifying any physical or mental condition requiring medical attention.

51. The medical services provided to juveniles should seek to detect and should treat any physical or mental illness, substance abuse or other condition that may hinder the integration of the juvenile into society. Every detention facility for juveniles should have immediate access to adequate medical facilities and equipment appropriate to the number and requirements of its residents and staff trained in preventive health care and the handling of medical emergencies. Every juvenile who is ill, who complains of illness or who demonstrates symptoms of physical or mental difficulties, should be examined promptly by a medical officer.

52. Any medical officer who has reason to believe that the physical or mental health of a juvenile has been or will be injuriously affected by continued detention, a hunger strike or any condition of detention should report this fact immediately to the director of the detention facility in question and to the independent authority responsible for safeguarding the well-being of the juvenile.

53. A juvenile who is suffering from mental illness should be treated in a specialized institution under independent medical management. Steps should be taken, by arrangement with appropriate agencies, to ensure any necessary continuation of mental health care after release.

54. Juvenile detention facilities should adopt specialized drug abuse prevention and rehabilitation programmes administered by qualified personnel. These programmes should be adapted to the age, sex and other requirements of the juveniles concerned, and detoxification facilities and services staffed by trained personnel should be available to drug- or alcohol-dependent juveniles.

55. Medicines should be administered only for necessary treatment on medical grounds and, when possible, after having obtained the informed consent of the juvenile concerned. In particular, they must not be administered with a view to eliciting information or a confession, as a punishment or as a means of restraint. Juveniles shall never be testees in the experimental use of drugs and treatment. The administration of any drug should always be authorized and carried out by qualified medical personnel.

I. Notification of illness, injury and death

56. The family or guardian of a juvenile and any other person designated by the juvenile have the right to be informed of the state of health of the juvenile on request and in the event of any important changes in the health of the juvenile. The director of the detention facility should notify immediately the family or guardian of the juvenile concerned, or other designated person, in case of death, illness requiring transfer of the juvenile to an outside medical facility, or a condition requiring clinical care within the detention facility for more than 48 hours. Notification should also be given to the consular authorities of the State of which a foreign juvenile is a citizen.

57. Upon the death of a juvenile during the period of deprivation of liberty, the nearest relative should have the right to inspect the death certificate, see the body and determine the method of disposal of the body. Upon the death of a juvenile in detention, there should be an independent inquiry into the causes of death, the report of which should be made accessible to the nearest relative. This inquiry should also be made when the death of a juvenile occurs within six months from the date of his or her release from the detention facility and there is reason to believe that the death is related to the period of detention.

58. A juvenile should be informed at the earliest possible time of the death, serious illness or injury of any immediate family member and should be provided with the opportunity to attend the funeral of the deceased or go to the bedside of a critically ill relative.

J. Contacts with the wider community

59. Every means should be provided to ensure that juveniles have adequate communication with the outside world, which is an integral part of the right to fair and humane treatment and is essential to the preparation of juveniles for their return to society. Juveniles should be allowed to communicate with their families, friends and other persons or representatives of reputable outside organizations, to leave detention facilities for a visit to their home and family and to receive special permission to leave the detention facility

for educational, vocational or other important reasons. Should the juvenile be serving a sentence, the time spent outside a detention facility should be counted as part of the period of sentence.

60. Every juvenile should have the right to receive regular and frequent visits, in principle once a week and not less than once a month, in circumstances that respect the need of the juvenile for privacy, contact and unrestricted communication with the family and the defence counsel.

61. Every juvenile should have the right to communicate in writing or by telephone at least twice a week with the person of his or her choice, unless legally restricted, and should be assisted as necessary in order effectively to enjoy this right. Every juvenile should have the right to receive correspondence.

62. Juveniles should have the opportunity to keep themselves informed regularly of the news by reading newspapers, periodicals and other publications, through access to radio and television programmes and motion pictures, and through the visits of the representatives of any lawful club or organization in which the juvenile is interested.

K. Limitations of physical restraint and the use of force

63. Recourse to instruments of restraint and to force for any purpose should be prohibited, except as set forth in rule 64.

64. Instruments of restraint and force can only be used in exceptional cases, where all other control methods have been exhausted and failed, and only as explicitly authorized and specified by law and regulation. They should not cause humiliation or degradation, and should be used restrictively and only for the shortest possible period of time. By order of the director of the administration, such instruments might be resorted to in order to prevent the juvenile from inflicting self-injury, injuries to others or serious destruction of property. In such instances, the director should at once consult medical and other relevant personnel and report to the higher administrative authority.

65. The carrying and use of weapons by personnel should be prohibited in any facility where juveniles are detained.

L. Disciplinary procedures

66. Any disciplinary measures and procedures should maintain the interest of safety and an ordered community life and should be consistent with the upholding of the inherent dignity of the juvenile and the fundamental objective of institutional care, namely, instilling a sense of justice, self-respect and respect for the basic rights of every person.

67. All disciplinary measures constituting cruel, inhumane or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile

concerned. The reduction of diet and the restriction or denial of contact with family members should be prohibited for any purpose. Labour should always be viewed as an educational tool and a means of promoting the self-respect of the juvenile in preparing him or her for return to the community and should not be imposed as a disciplinary sanction. No juvenile should be sanctioned more than once for the same disciplinary infraction. Collective sanctions should be prohibited.

68. Legislation or regulations adopted by the competent administrative authority should establish norms concerning the following, taking full account of the fundamental characteristics, needs and rights of juveniles:

(a) Conduct constituting a disciplinary offence;

(b) Type and duration of disciplinary sanctions that may be inflicted;

(c) The authority competent to impose such sanctions;

(d) The authority competent to consider appeals.

69. A report of misconduct should be presented promptly to the competent authority, which should decide on it without undue delay. The competent authority should conduct a thorough examination of the case.

70. No juvenile should be disciplinarily sanctioned except in strict accordance with the terms of the law and regulations in force. No juvenile should be sanctioned unless he or she has been informed of the alleged infraction in a manner appropriate to the full understanding of the juvenile, and given a proper opportunity of presenting his or her defence, including the right of appeal to a competent impartial authority. Complete records should be kept of all disciplinary proceedings.

71. No juveniles should be responsible for disciplinary functions except in the supervision of specified social, educational or sports activities or in self-government programmes.

M. Inspection and complaints

72. Qualified inspectors or an equivalent duly constituted authority not belonging to the administration of the facility should be empowered to conduct inspections on a regular basis and to undertake unannounced inspections on their own initiative, and should enjoy full guarantees of independence in the exercise of this function. Inspectors should have unrestricted access to all persons employed by or working in any facility where juveniles are or may be deprived of their liberty, to all juveniles and to all records of such facilities.

73. Qualified medical officers attached to the inspecting authority or the public health service should participate in the inspections, evaluating compliance with the rules concerning the physical environment, hygiene, accommodation, food, exercise and medical services, as well as any other aspect or conditions of institutional life that affect the physical and mental health of juveniles. Every juvenile should have the right to talk in confidence to any inspecting officer.

74. After completing the inspection, the inspector should be required to submit a report on the findings. The report should include an evaluation of the compliance of the detention facilities with the present rules and relevant provisions of national law, and recommendations regarding any steps considered necessary to ensure compliance with them. Any facts discovered by an inspector that appear to indicate that a violation of legal provisions concerning the rights of juveniles or the operation of a juvenile detention facility has occurred should be communicated to the competent authorities for investigation and prosecution.

75. Every juvenile should have the opportunity of making requests or complaints to the director of the detention facility and to his or her authorized representative.

76. Every juvenile should have the right to make a request or complaint, without censorship as to substance, to the central administration, the judicial authority or other proper authorities through approved channels, and to be informed of the response without delay.

77. Efforts should be made to establish an independent office (ombudsman) to receive and investigate complaints made by juveniles deprived of their liberty and to assist in the achievement of equitable settlements.

78. Every juvenile should have the right to request assistance from family members, legal counsellors, humanitarian groups or others where possible, in order to make a complaint. Illiterate juveniles should be provided with assistance should they need to use the services of public or private agencies and organizations which provide legal counsel or which are competent to receive complaints.

N. Return to the community

79. All juveniles should benefit from arrangements designed to assist them in returning to society, family life, education or employment after release. Procedures, including early release, and special courses should be devised to this end.

80. Competent authorities should provide or ensure services to assist juveniles in re-establishing themselves in society and to lessen prejudice against such juveniles. These services should ensure, to the extent possible, that the juvenile is provided with suitable residence, employment, clothing, and sufficient means to maintain himself or herself upon release in order to facilitate successful reintegration. The representatives of agencies providing such services should be consulted and should have access to juveniles while detained, with a view to assisting them in their return to the community.

V. PERSONNEL

81. Personnel should be qualified and include a sufficient number of specialists such as educators, vocational instructors, counsellors, social workers, psychiatrists and psychologists. These and other specialist staff

should normally be employed on a permanent basis. This should not preclude part-time or volunteer workers when this is appropriate and beneficial to the level of support and training they can provide. Detention facilities should make use of all remedial, educational, moral, spiritual, and other resources and forms of assistance that are appropriate and available in the community, according to the individual needs and problems of detained juveniles.

82. The administration should provide for the careful selection and recruitment of every grade and type of personnel, since the proper management of detention facilities depends on their integrity, humanity, ability and professional capacity to deal with juveniles, as well as personal suitability for the work.

83. To secure the foregoing ends, personnel should be appointed as professional officers with adequate remuneration to attract and retain suitable women and men. The personnel of juvenile detention facilities should be continually encouraged to fulfil their duties and obligations in a humane, committed, professional, fair and efficient manner, to conduct themselves at all times in such a way as to deserve and gain the respect of the juveniles, and to provide juveniles with a positive role model and perspective.

84. The administration should introduce forms of organization and management that facilitate communications between different categories of staff in each detention facility so as to enhance co-operation between the various services engaged in the care of juveniles, as well as between staff and the administration, with a view to ensuring that staff directly in contact with juveniles are able to function in conditions favourable to the efficient fulfilment of their duties.

85. The personnel should receive such training as will enable them to carry out their responsibilities effectively, including in particular training in child psychology, child welfare and international standards and norms of human rights and the rights of the child, including the present rules. The personnel should maintain and improve their knowledge and professional capacity by attending courses of in-service training, to be organized at suitable intervals throughout their career.

86. The director of a facility should be adequately qualified for his or her task by administrative ability, suitable training and experience, and should carry out his or her duties on a full-time basis.

87. In the performance of their duties, personnel of detention facilities should respect and protect the human dignity and fundamental human rights of all juveniles. In particular:

(a) No member of the detention facility or institutional personnel may inflict, instigate or tolerate any act of torture or any form of harsh, cruel, inhuman or degrading treatment, punishment, correction or discipline under any pretext or circumstance whatsoever;

(b) All personnel should rigorously oppose and combat any act of corruption, reporting it without delay to the competent authorities;

(c) All personnel should respect the present Rules. Personnel who have reason to believe that a serious violation of the present Rules has occurred or is about to occur should report the matter to their superior authorities or organs vested with reviewing or remedial power;

(d) All personnel should ensure the full protection of the physical and mental health of juveniles, including protection from physical, sexual and emotional abuse and exploitation, and should take immediate action to secure medical attention whenever required;

(e) All personnel should respect the right of the juvenile to privacy, and in particular should safeguard all confidential matters concerning juveniles or their families learned as a result of their professional capacity;

(f) All personnel should seek to minimize any differences between life inside and outside the detention facility which tend to lessen due respect to the dignity of juveniles as human beings.

8. Domestic violence

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Recommends to the General Assembly the adoption of the following draft resolution:

Domestic violence

The General Assembly,

Reaffirming its resolution 40/36 of 29 November 1985 on domestic violence and resolution 6 adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Milan, Italy, from 26 August to 6 September 1985, 36/ concerning the fair treatment of women by the criminal justice system,

Taking into account the recommendations made at the Expert Group Meeting on violence in the family, held at Vienna from 8 to 12 December 1986,

Also taking into account the recommendations made on the subject of domestic violence by the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, held at Nairobi from 15 to 26 July 1985, 37/ the resolution on

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36/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. E.

37/ See Report of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, Nairobi, 15-26 July 1985 (United Nations publication, Sales No. E.85.IV.10).

domestic violence against women submitted to the Second Committee of the Conference, and the recommendations and conclusions arising from the first review and appraisal of the implementation of the Nairobi Forward-looking Strategies for the Advancement of Women to the Year 2000, 38/

Commending the efforts of the United Nations, inter alia, through the Convention on the Elimination of All Forms of Discrimination against Women 39/ and the Convention on the Rights of the Child, 40/ to guarantee the human rights of women and children,

Recognizing the need for further work to be undertaken with respect to violence against all members of the family unit,

Welcoming the report of the Secretary-General on domestic violence, 41/

Recalling that, in its resolution 44/82 of 8 December 1989, it proclaimed 1994 the International Year of the Family,

Bearing in mind the serious lack of information and research on domestic violence globally and the need for exchange of information on ways of dealing with this problem,

Recognizing the concern of Member States about domestic violence as an urgent problem deserving focused attention and concerted action,

Aware that domestic violence is a critical problem that has serious physical and psychological effects on individual family members and that jeopardizes the health and survival of the family unit,

Recognizing that domestic violence may take many forms, both physical and psychological,

Convinced of the necessity to improve the situation of the victims of domestic violence,

Recognizing the need to focus on all victims of domestic violence and to consider common policies and specialized approaches regarding women, children, the elderly and those especially vulnerable because of disability,

Noting that the effects of exposure to domestic violence, especially during childhood, may produce long-term effects or attitudes and behaviour, including increased tolerance to violence in society as a whole,

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38/ E/CN.6/1990/5.

39/ General Assembly resolution 34/180.

40/ General Assembly resolution 44/25, annex.

41/ A/CONF.144/17.

Aware of the fact that many offenders, including many of the victims and those convicted of offences relating to domestic violence, were themselves abused as children,

Recognizing the fact that domestic violence is often a recurring phenomenon and that an effective early response, as part of a crime prevention policy, may prevent the occurrence of future incidents,

Convinced that the problem of domestic violence is prevalent and affects all segments of society regardless of class, income, culture, gender, age or religion,

Conscious that the complex problem of domestic violence is viewed differently in various cultures of different countries and that at the international level it must be addressed with sensitivity to the cultural context in each country,

1. Urges Member States to begin or continue to explore, develop and implement multidisciplinary policies, measures and strategies, within and outside of the criminal justice system, with respect to domestic violence in all its facets, including legal, law enforcement, judicial, societal, educational, psychological, economic, health-related and correctional aspects and, in particular:

(a) To take all possible steps to prevent domestic violence;

(b) To ensure fair treatment of and effective assistance to the victims of domestic violence;

(c) To increase awareness and sensitivity concerning domestic violence, in particular by fostering the education of criminal justice and other professionals in regard to this issue;

(d) To provide appropriate treatment for the offenders;

2. Recommends that Member States ensure that their systems of criminal justice and the competent bodies for juveniles and their families provide an effective and equitable response to domestic violence and that they take appropriate steps towards achieving this goal;

3. Urges Member States to exchange information, experience and research findings between governmental and non-governmental organizations regarding domestic violence and, in so doing, recommends the use of the United Nations Criminal Justice Information Network and other available means to facilitate the exchange of information concerning domestic violence and the means of curtailing it;

4. Invites Member States, the Secretary-General and concerned intergovernmental and non-governmental organizations to include the problem of domestic violence in the preparations for and observance of the International Year of the Family, within the crime prevention and criminal justice area;

5. Requests the Secretary-General to convene a working group of experts, within existing or with extrabudgetary resources, to formulate guidelines or a manual for practitioners concerning the problem of domestic violence for consideration at the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and its regional preparatory meetings, taking into account the conclusions of the report of the Secretary-General on the prevention of domestic violence; 41/

6. Requests the Committee on Crime Prevention and Control to consider placing the topic of domestic violence on the agenda of the Ninth United Nations Congress as a matter of priority.

9. Instrumental use of children in criminal activities

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Recommends to the General Assembly the adoption of the following draft resolution:

Instrumental use of children in criminal activities

The General Assembly,

Bearing in mind the Convention on the Rights of the Child 42/ and the Declaration of the Rights of the Child, 43/ as well as the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 44/

Bearing in mind also the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), 45/ the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) 46/ and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 47/

42/ General Assembly resolution 44/25, annex.

43/ General Assembly resolution 1386 (XIV).

44/ E/CONF.82/15 and Corr.2.

45/ General Assembly resolution 40/33, annex.

46/ Sect. A, resolution 6.

47/ Ibid., resolution 7.

Recalling that, in its resolution 44/82 of 8 December 1989, it proclaimed 1994 the International Year of the Family,

Recalling and reaffirming its resolutions 43/121 of 8 December 1988 on the use of children in the illicit traffic in narcotic drugs and 40/35 of 29 November 1985 on the prevention of juvenile delinquency and Economic and Social Council resolutions 1989/66 on the Beijing Rules and 1990/33 of 24 May 1990 on the prevention of drug consumption among young persons,

Recognizing that within the traditional forms of child exploitation the instrumental use of children in criminal activities, especially those aimed at illicit profit making, has become an increasingly grave phenomenon,

Concerned that children are being led into a criminal lifestyle by adults, which blocks their developmental opportunities for a healthy and responsible role in society,

Considering that the instrumental use by adults of children in profit-making criminal activities is a grave practice that represents a violation of social norms and a deprivation of the right of children to a proper development, education and upbringing and prejudices their future,

Emphasizing that categories of children, such as those who are runaway, vagrant, wayward or "street children", are targets for exploitation, including seduction into drug trafficking and abuse, prostitution, pornography, theft, burglary, begging and homicide for reward,

1. Requests Member States and the Secretary-General to take measures with a view to formulating programmes to deal with the problem of the instrumental use of children in criminal activities and to take effective action, including the following:

(a) To undertake research and a systematic analysis of the phenomenon;

(b) To develop training and awareness-raising activities in order to make law enforcement and other justice personnel, as well as policy makers, sensitive to those situations of social risk which cause children to be manipulated by adults in order to cause them to engage in crime;

(c) To take measures in combating criminality with a view to ensuring that appropriate sanctions be applied to adults who are the instigators and authors of crimes, rather than on the children involved who themselves are victims of criminality by virtue of their being exposed to crime;

(d) To develop comprehensive policies, programmes and effective preventive and remedial measures, in order to eliminate the involvement and exploitation of children by adults in criminal activities;

2. Requests the Secretary-General to study the situation in different countries and to report on the implementation of the present resolution to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

3. Also requests the Secretary-General to invite the collaboration of the Centre for Human Rights and the Division of Narcotic Drugs of the United Nations Secretariat, the United Nations Fund for Drug Abuse Control, the World Health Organization, the United Nations Children's Fund, the Office of the United Nations High Commissioner for Refugees, the United Nations Educational, Scientific and Cultural Organization and the United Nations regional and interregional institutes for the prevention of crime and the treatment of offenders and other concerned institutes in the implementation of the present resolution;

4. Requests the Committee on Crime Prevention and Control to consider this matter and to keep it under constant review.

10. Model treaty on extradition

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Recommends to the General Assembly the adoption of the following draft resolution:

Model Treaty on Extradition

The General Assembly,

Bearing in mind the Milan Plan of Action, 48/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and approved by the General Assembly in its resolution 40/32 of 29 November 1985,

Bearing in mind also the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, 49/ which, in principle 37, stipulate that the United Nations should prepare model instruments suitable for use as international and regional conventions and as guides for national implementing legislation,

Recalling resolution 1 of the Seventh Congress, 50/ in which Member States were urged, inter alia, to increase their activity at the international level in order to combat organized crime, including, as appropriate, entering into bilateral treaties on extradition and mutual legal assistance,

Recalling also resolution 23 of the Seventh Congress on criminal acts of a terrorist character, 50/ in which all States were called upon to take steps to strengthen co-operation, inter alia, in the area of extradition,

Calling attention to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 51/

Acknowledging the valuable contributions of Governments, non-governmental organizations and individual experts, in particular the Government of Australia and the International Association of Penal Law,

Gravely concerned by the escalation of crime, both national and transnational,

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48/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

49/ Ibid., sect. B.

50/ Ibid., sect. E.

51/ E/CONF.82/15 and Corr.2.

Convinced that the establishment of bilateral and multilateral arrangements for extradition will greatly contribute to developing more effective international co-operation for the control of crime,

Conscious of the need to respect human dignity and recalling the rights conferred upon every person involved in criminal proceedings, as embodied in the Universal Declaration of Human Rights 52/ and the International Covenant on Civil and Political Rights, 53/

Conscious that in many cases existing bilateral extradition arrangements are outdated and should be replaced by modern arrangements taking into account recent developments in international criminal law,

Recognizing the importance of the model treaty on extradition as an effective way of dealing with the complex aspects and serious consequences of crime, especially in its new forms and dimensions,

1. Adopts the Model Treaty on Extradition contained in the annex to the present resolution as a useful framework that could be of assistance to States interested in negotiating and concluding bilateral agreements aimed at improving co-operation in matters of crime prevention and criminal justice;

2. Invites Member States, if they have not yet established treaty relations with other States in the area of extradition, or if they wish to revise existing treaty relations, to take into account, whenever doing so, the Model Treaty on Extradition;

3. Urges all States to strengthen international co-operation further in criminal justice;

4. Requests the Secretary-General to bring the present resolution, with the Model Treaty, to the attention of Member States;

5. Also urges Member States to inform the Secretary-General periodically of efforts undertaken to establish extradition arrangements;

6. Requests the Committee on Crime Prevention and Control to review periodically the progress attained in this field;

7. Requests the Committee on Crime Prevention and Control, where requested, to provide guidance and assistance to Member States in the development of legislation which would enable giving effect to the obligations in such treaties as are to be negotiated on the basis of the Model Treaty on Extradition;

8. Invites Member States, on request, to make available to the Secretary-General the provisions of their extradition legislation enabling these to be made available to such Member States desiring to enact or further develop legislation in this field.

52/ General Assembly resolution 217 A (III).

53/ General Assembly resolution 2200 A (XXI), annex.

ANNEX

Model Treaty on Extradition

The _____ and the _____

Desirous of making more effective the co-operation of the two countries in the control of crime by concluding a treaty on extradition,

Have agreed as follows:

ARTICLE 1

Obligation to extradite

Each Party agrees to extradite to the other, upon request and subject to the provisions of this Treaty, any person who is wanted in the requesting State for prosecution for an extraditable offence or for the imposition or enforcement of a sentence in respect of such an offence. 54/

ARTICLE 2

Extraditable offences

1. For the purposes of this Treaty, extraditable offences are offences that are punishable under the laws of both Parties by imprisonment or other deprivation of liberty for a maximum period of at least [one/two] year(s), or by a more severe penalty. Where the request for extradition relates to a person who is wanted for the enforcement of a sentence of imprisonment or other deprivation of liberty imposed for such an offence, extradition shall be granted only if a period of at least [four/six] months of such sentence remains to be served.

2. In determining whether an offence is an offence punishable under the laws of both Parties, it shall not matter whether:

(a) The laws of the Parties place the acts or omissions constituting the offence within the same category of offence or denominate the offence by the same terminology;

(b) Under the laws of the Parties the constituent elements of the offence differ, it being understood that the totality of the acts or omissions as presented by the requesting State shall be taken into account.

3. Where extradition of a person is sought for an offence against a law relating to taxation, customs duties, exchange control or other revenue

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54/ Reference to the imposition of a sentence may not be necessary for all countries.

matters, extradition may not be refused on the ground that the law of the requested State does not impose the same kind of tax or duty or does not contain a tax, customs duty or exchange regulation of the same kind as the law of the requesting State. 55/

4. If the request for extradition includes several separate offences each of which is punishable under the laws of both Parties, but some of which do not fulfil the other conditions set out in paragraph 1 of this article, the requested Party may grant extradition for the latter offences provided that the person is to be extradited for at least one extraditable offence.

ARTICLE 3

Mandatory grounds for refusal

Extradition shall not be granted in any of the following circumstances:

(a) If the offence for which extradition is requested is regarded by the requested State as an offence of a political nature; 56/

(b) If the requested State has substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin, political opinions, sex or status, or that that person's position may be prejudiced for any of those reasons;

(c) If the offence for which extradition is requested is an offence under military law, which is not also an offence under ordinary criminal law;

(d) If there has been a final judgement rendered against the person in the requested State in respect of the offence for which the person's extradition is requested;

(e) If the person whose extradition is requested has, under the law of either Party, become immune from prosecution or punishment for any reason, including lapse of time or amnesty; 57/

55/ Some countries may wish to omit this paragraph or provide an optional ground for refusal under article 4.

56/ Some countries may wish to use the following addition: "Reference to an offence of a political nature shall not include any offence in respect of which the Parties have assumed an obligation, pursuant to any multilateral convention, to take prosecutorial action where they do not extradite, nor any other offence agreed by the Parties not to be an offence of a political character for the purposes of extradition."

57/ Some countries may wish to make this an optional ground for refusal under article 4.

(f) If the person whose extradition is requested has been or would be subjected in the requesting State to torture or cruel, inhuman or degrading treatment or punishment or if that person has not received or would not receive the minimum guarantees in criminal proceedings, as contained in the International Covenant on Civil and Political Rights, article 14; 53/

(g) If the judgement of the requesting State has been rendered in absentia, the convicted person has not had sufficient notice of the trial nor the opportunity to arrange for his or her defence and he has not had or will not have the opportunity to have the case retried in his or her presence. 58/

ARTICLE 4

Optional grounds for refusal

Extradition may be refused in any of the following circumstances:

(a) If the person whose extradition is requested is a national of the requested State. Where extradition is refused on this ground, the requested State shall, if the other State so requests, submit the case to its competent authorities with a view to taking appropriate action against the person in respect of the offence for which extradition had been requested;

(b) If the competent authorities of the requested State have decided either not to institute or to terminate proceedings against the person for the offence in respect of which extradition is requested;

(c) If a prosecution in respect of the offence for which extradition is requested is pending in the requested State against the person whose extradition is requested;

(d) If the offence for which extradition is requested carries the death penalty under the law of the requesting State, unless that State gives such assurance as the requested State considers sufficient that the death penalty will not be imposed or, if imposed, will not be carried out; 59/

(e) If the offence for which extradition is requested has been committed outside the territory of either Party and the law of the requested State does not provide for jurisdiction over such an offence committed outside its territory in comparable circumstances;

(f) If the offence for which extradition is requested is regarded under the law of the requested State as having been committed in whole or in part

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58/ Some countries may wish to add to article 3 the following ground for refusal: "If there is insufficient proof, according to the evidentiary standards of the requested State, that the person whose extradition is requested is a party to the offence" (see also footnote 617).

59/ Some countries may wish to apply the same restriction to the imposition of a life, or indeterminate, sentence.

within that State. 60/ Where extradition is refused on this ground, the requested State shall, if the other State so requests, submit the case to its competent authorities with a view to taking appropriate action against the person for the offence for which extradition had been requested;

(g) If the person whose extradition is requested has been sentenced or would be liable to be tried or sentenced in the requesting State by an extraordinary or ad hoc court or tribunal;

(h) If the requested State, while also taking into account the nature of the offence and the interests of the requesting State, considers that, in the circumstances of the case, the extradition of that person would be incompatible with humanitarian considerations in view of age, health or other personal circumstances of that person.

ARTICLE 5

Channels of communication and required documents

1. A request for extradition shall be made in writing. The request, supporting documents and subsequent communications shall be transmitted through the diplomatic channel, directly between the ministries of justice or any other authorities designated by the Parties.

2. A request for extradition shall be accompanied by the following:

(a) In all cases,

(i) As accurate a description as possible of the person sought, together with any other information that may help to establish that person's identity, nationality and location;

(ii) The text of the relevant provision of the law creating the offence or, where necessary, a statement of the relevant law as to the offence and a statement of the penalty that can be imposed for the offence;

(b) If the person is accused of an offence, by a warrant issued by a court or other competent judicial authority for the arrest of the person or a certified copy of that warrant, a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the alleged offence, including an indication of the time and place of its commission; 61/

60/ Some countries may wish to make specific reference to a vessel under its flag or an aircraft registered under its laws at the time of the commission of the offence.

61/ Countries that require a judicial assessment of the sufficiency of evidence may wish to add the following clause: "... and sufficient proof in a form acceptable under the law of the requested State, establishing, according to the evidentiary standards of that State, that the person is a party to the offence" (see also footnote 58).

(c) If the person has been convicted of an offence, by a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the offence and by the original or certified copy of the judgement or any other document setting out the conviction and the sentence imposed, the fact that the sentence is enforceable, and the extent to which the sentence remains to be served;

(d) If the person has been convicted of an offence in his or her absence, in addition to the documents set out in paragraph 2 (c) of this article, by a statement as to the legal means available to the person to prepare his or her defence or to have the case retried in his or her presence;

(e) If the person has been convicted of an offence but no sentence has been imposed, by a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the offence and by a document setting out the conviction and a statement affirming that there is an intention to impose a sentence.

3. The documents submitted in support of a request for extradition shall be accompanied by a translation into the language of the requested State or in another language acceptable to that State.

ARTICLE 6

Simplified extradition procedure

The requested State, if not precluded by its law, may grant extradition after receipt of a request for provisional arrest, provided that the person sought explicitly consents before a competent authority.

ARTICLE 7

Certification and authentication

Except as provided by this Treaty, a request for extradition and the supporting documents thereto, as well as documents or other material supplied in response to such a request, shall not require certification or authentication. 62/

ARTICLE 8

Additional information

If the requested State considers that the information provided in support of a request for extradition is not sufficient, it may request that additional information be furnished within such reasonable time as it specifies.

62/ The laws of some countries require authentication before documents transmitted from other countries can be admitted in their courts and, therefore, would require a clause setting out the authentication required.

ARTICLE 9

Provisional arrest

1. In case of urgency the requesting State may apply for the provisional arrest of the person sought pending the presentation of the request for extradition. The application shall be transmitted by means of the facilities of the International Criminal Police Organization, by post or telegraph or by any other means affording a record in writing.

2. The application shall contain a description of the person sought, a statement that extradition is to be requested, a statement of the existence of one of the documents mentioned in paragraph 2 of article 5 authorizing the apprehension of the person, a statement of the punishment that can be or has been imposed for the offence, including the time left to be served and a concise statement of the facts of the case, and a statement of the location, where known, of the person.

3. The requested State shall decide on the application in accordance with its law and communicate its decision to the requesting State without delay.

4. The person arrested upon such an application shall be set at liberty upon the expiration of [40] days from the date of arrest if a request for extradition, supported by the relevant documents specified in paragraph 2 of article 5, has not been received. This paragraph does not preclude the possibility of conditional release of the person prior to the expiration of the [40] days.

5. The release of the person pursuant to paragraph 4 of this article shall not prevent rearrest and institution of proceedings with a view to extraditing the person sought if the request and supporting documents are subsequently received.

ARTICLE 10

Decision on the request

1. The requested State shall deal with the request for extradition pursuant to procedures provided by its own law, and shall promptly communicate its decision to the requesting State.

2. Reasons shall be given for any complete or partial refusal of the request.

ARTICLE 11

Surrender of the person

1. Upon being informed that extradition has been granted, the Parties shall, without undue delay, arrange for the surrender of the person sought and the requested State shall inform the requesting State of the length of time for which the person sought was detained with a view to surrender.

2. The person shall be removed from the territory of the requested State within such reasonable period as the requested State specifies and, if the person is not removed within that period, the requested State may release the person and may refuse to extradite that person for the same offence.

3. If circumstances beyond its control prevent a Party from surrendering or removing the person to be extradited, it shall notify the other Party. The two Parties shall mutually decide upon a new date of surrender, and the provisions of paragraph 2 of this article shall apply.

ARTICLE 12

Postponed or conditional surrender

1. The requested State may, after making its decision on the request for extradition, postpone the surrender of a person sought, in order to proceed against that person, or, if that person has already been convicted, in order to enforce a sentence imposed for an offence other than that for which extradition is sought. In such case the requested State shall advise the requesting State accordingly.

2. The requested State may, instead of postponing surrender, temporarily surrender the person sought to the requesting State in accordance with conditions to be determined between the Parties.

ARTICLE 13

Surrender of property

1. To the extent permitted under the law of the requested State and subject to the rights of third parties, which shall be duly respected, all property found in the requested State that has been acquired as a result of the offence or that may be required as evidence shall, if the requesting State so requests, be surrendered if extradition is granted.

2. The said property may, if the requesting State so requests, be surrendered to the requesting State even if the extradition having been agreed to cannot be carried out.

3. When the said property is liable to seizure or confiscation in the requested State, it may retain it or temporarily hand it over.

4. Where the law of the requested State or the protection of the rights of third parties so require, any property so surrendered shall be returned to the requested State free of charge after the completion of the proceedings, if that State so requests.

ARTICLE 14

Rule of speciality

1. A person extradited under this Treaty shall not be proceeded against, sentenced, detained, re-extradited to a third State, or subjected to any other restriction of personal liberty in the territory of the requesting State for any offence committed before surrender other than:

(a) An offence for which extradition was granted;

(b) Any other offence in respect of which the requested State consents. 63/ Consent shall be given if the offence for which it is requested is itself subject to extradition in accordance with this Treaty. 64/

2. A request for the consent of the requested State under this article shall be accompanied by the documents mentioned in paragraph 2 of article 5 and a legal record of any statement made by the extradited person with respect to the offence.

3. Paragraph 1 of this article shall not apply if the person has had an opportunity to leave the requesting State and has not done so within [30/45] days of final discharge in respect of the offence for which that person was extradited or if the person has voluntarily returned to the territory of the requesting State after leaving it.

ARTICLE 15

Transit

1. Where a person is to be extradited to a Party from a third State through the territory of the other Party, the Party to which the person is to be extradited shall request the other Party to permit the transit of that person through its territory. This does not apply where air transport is used and no landing in the territory of the other Party is scheduled.

2. Upon receipt of such a request, which shall contain relevant information, the requested State shall deal with this request pursuant to procedures provided by its own law. The requested State shall grant the request expeditiously unless its essential interests would be prejudiced thereby. 65/

63/ Some countries may wish to add, as a third case, explicit consent of the person.

64/ Some countries may not wish to assume that obligation and may wish to include other grounds in determining whether or not to grant consent.

65/ Some countries may wish to agree on other grounds for refusal, which may also warrant refusal for extradition, such as those related to the nature of the offence (e.g. political, fiscal, military) or to the status of the person (e.g. own nationals).

3. The State of transit shall ensure that legal provisions exist enabling the person to be held in custody during transit.

4. In the event of an unscheduled landing, the Party to be requested to permit transit may, at the request of the escorting officer, hold the person in custody for [48] hours, pending receipt of the transit request to be made in accordance with paragraph 1 of this article.

ARTICLE 16

Concurrent requests

If a Party receives requests for extradition for the same person from both the other Party and a third State it shall, at its discretion, determine to which of those States the person is to be extradited.

ARTICLE 17

Costs

1. The requested State shall meet the cost of any proceedings in its jurisdiction arising out of a request for extradition.

2. The requested State shall also bear the costs incurred in its territory in connection with the seizure and handing over of property, or the arrest and detention of the person whose extradition is sought. 66/

3. The requesting State shall bear the costs incurred in conveying the person from the territory of the requested State, including transit costs.

ARTICLE 18

Final provisions

1. This Treaty is subject to (ratification, acceptance or approval). The instruments of (ratification, acceptance or approval) shall be exchanged as soon as possible.

2. This Treaty shall enter into force on the thirtieth day after the day on which the instruments of (ratification, acceptance or approval) are exchanged.

3. This Treaty shall apply to requests made after its entry into force, even if the relevant acts or omissions occurred prior to that date.

4. Either Contracting Party may denounce this Treaty by giving notice in writing to the other Party. Such denunciation shall take effect six months following the date on which such notice is received by the other Party.

66/ Some countries may wish to consider reimbursement of costs incurred as a result of withdrawal of a request for extradition or provisional arrest.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

_____ _____

Done at _____ on _____ in the _____
and _____ languages (both) texts being equally authentic.
(all)

11. Model treaty on mutual assistance in criminal matters

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Recommends to the General Assembly the adoption of the following draft resolution:

Model Treaty on Mutual Assistance in Criminal Matters

The General Assembly,

Bearing in mind the Milan Plan of Action, 67/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and approved by the General Assembly in its resolution 40/32 of 29 November 1985,

Bearing in mind also the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, 68/ which, in principle 37, stipulate that the United Nations should prepare model instruments suitable for use as international and regional conventions and as guides for national implementing legislation,

Recalling resolution 1 of the Seventh Congress 69/ on organized crime, in which Member States were urged, inter alia, to increase their activity at the international level in order to combat organized crime, including, as appropriate, entering into bilateral treaties on extradition and mutual legal assistance,

Recalling also resolution 23 of the Seventh Congress 69/ on criminal acts of a terrorist character, in which all States were called upon to take steps to strengthen co-operation particularly, inter alia, in the area of mutual assistance,

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67/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

68/ Ibid., sect. B.

69/ Ibid., sect. E.

Recalling further the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 70/

Acknowledging the valuable contributions to the model treaty on mutual assistance in criminal matters that Governments, non-governmental organizations and individual experts have made, in particular the Government of Australia and the International Association of Penal Law,

Gravely concerned by the escalation of crime, both national and transnational,

Convinced that the establishment of bilateral and multilateral arrangements for mutual assistance in criminal matters will greatly contribute to developing more effective international co-operation for the control of criminality,

Conscious of the need to respect human dignity and recalling the rights conferred upon every person involved in criminal proceedings, as embodied in the Universal Declaration of Human Rights 71/ and the International Covenant on Civil and Political Rights, 72/

Recognizing the importance of the model treaty on mutual assistance in criminal matters as an effective way of dealing with the complex aspects and serious consequences of crime, especially in its new forms and dimensions,

1. Adopts the Model Treaty on Mutual Assistance in Criminal Matters together with its Optional Protocol, contained in the annex to the present resolution, as a useful framework that could be of assistance to States interested in negotiating and concluding bilateral agreements aimed at improving co-operation in matters of crime prevention and criminal justice;

2. Invites Member States, if they have not yet established treaty relations with other States in the matter of mutual assistance in criminal matters, or if they wish to revise existing treaty relations, to take into account, whenever doing so, the Model Treaty on Mutual Assistance in Criminal Matters;

3. Urges all States to strengthen international co-operation and mutual assistance further in criminal justice;

4. Requests the Secretary-General to bring the present resolution, with the Model Treaty, to the attention of Governments;

5. Also urges Member States to inform the Secretary-General periodically of efforts undertaken to establish mutual assistance arrangements in criminal matters;

70/ E/CONF.82/15 and Corr.2.

71/ General Assembly resolution 217 A (III).

72/ General Assembly resolution 2200 A (XXI), annex.

6. Requests the Committee on Crime Prevention and Control to review periodically the progress attained in this field;

7. Requests the Committee on Crime Prevention Prevention and Control, where requested, to provide guidance and assistance to Member States in the development of legislation which would enable giving effect to the obligations which will be contained in such treaties as are to be negotiated on the basis of the Model Treaty on Mutual Assistance in Criminal Matters;

8. Invites Member States, on request, to make available to the Secretary-General the provisions of their legislation on mutual assistance in criminal matters enabling these to be made available to such Member States desiring to enact or further develop legislation in this field.

ANNEX

Model Treaty on Mutual Assistance in Criminal Matters

The _____ and the _____

Desirous of extending to each other the widest measure of co-operation to combat crime,

Have agreed as follows:

ARTICLE 1

Scope of application 73/

1. The Parties shall, in accordance with this Treaty, afford to each other the widest possible measure of mutual assistance in investigations or court proceedings in respect of offences the punishment of which at the time of the request for assistance, falls within the jurisdiction of the judicial authorities of the Requesting State.

2. Mutual assistance to be afforded in accordance with this Treaty may include:

(a) Taking evidence or statements from persons;

(b) Assisting in the availability of detained persons or others to give evidence or assist in investigations;

(c) Effecting service of judicial documents;

73/ Additions to the scope of assistance to be provided can be considered bilaterally, such as provisions covering information on sentences passed on nationals of the Parties. Obviously, such assistance must be compatible with the law of the Requested State.

(d) Executing searches and seizures;

(e) Examining objects and sites;

(f) Providing information and evidentiary items;

(g) Providing originals or certified copies of relevant documents and records, including bank, financial, corporate or business records.

3. This Treaty does not apply to:

(a) The arrest or detention of any person with a view to the extradition of that person;

(b) The enforcement in the Requested State of criminal judgements imposed in the Requesting State except to the extent permitted by the law of the Requested State and the Optional Protocol to this Treaty;

(c) The transfer of persons in custody to serve sentences;

(d) The transfer of proceedings in criminal matters.

ARTICLE 2

Other arrangements 74/

Unless the Parties decide otherwise, this Treaty shall not affect obligations subsisting between them whether pursuant to other treaties or arrangements or otherwise.

ARTICLE 3

Designation of competent authorities

Each Party shall designate and indicate to the other Party an authority or authorities by or through which requests for the purpose of this Treaty should be made or received.

74/ This article recognizes the continuing role of informal assistance between law enforcement agencies and associated agencies in different countries.

ARTICLE 4

Refusal of assistance 75/

1. Assistance may be refused if: 76/

(a) The Requested State is of the opinion that the request, if granted, would prejudice its sovereignty, security, public order (ordre public) or other essential public interests;

(b) The offence is regarded by the Requested State as being of a political nature;

(c) There are substantial grounds for believing that the request for assistance has been made for the purpose of prosecuting a person on account of that person's race, sex, religion, nationality, ethnic origin or political opinions or that that person's position may be prejudiced for any of those reasons;

(d) The request relates to an offence that is subject to investigation or prosecution in the Requested State or the prosecution of which in the Requesting State would be incompatible with the Requested State's law on double jeopardy (ne bis in idem);

(e) The assistance requested requires the Requested State to carry out compulsory measures that are inconsistent with its law and practice had the offence been the subject of investigation or prosecution under its own jurisdiction;

(f) The act is an offence under military law, which is not also an offence under ordinary criminal law.

2. Assistance shall not be refused solely on the ground of secrecy of banks and similar financial institutions.

3. The Requested State may postpone the execution of the request if its immediate execution would interfere with an ongoing investigation or prosecution in the Requested State.

75/ This article provides an illustrative list of the grounds for refusal.

76/ Some countries may wish to delete or modify some of the provisions or include other grounds for refusal, such as those related to the nature of the offence (e.g. fiscal), the nature of the applicable penalty (e.g. capital punishment), requirements of shared concepts (e.g. double jurisdiction, no lapse of time) or specific kinds of assistance (e.g. interception of telecommunications, performing deoxyribonucleic-acid (DNA) tests). In particular, some countries may wish to include as a grounds for refusal the fact that the act on which the request is based would not be an offence if committed in the territory of the Requested State (dual criminality).

4. Before refusing a request or postponing its execution, the Requested State shall consider whether assistance may be granted subject to certain conditions. If the Requesting State accepts assistance subject to these conditions, it shall comply with them.

5. Reasons shall be given for any refusal or postponement of mutual assistance.

ARTICLE 5

Contents of requests 77/

1. Requests for assistance shall include:

(a) The name of the requesting office and the competent authority conducting the investigation or court proceedings to which the request relates;

(b) The purpose of the request and a brief description of the assistance sought;

(c) A description of the facts alleged to constitute the offence and a statement or text of the relevant laws, except in cases of a request for service of documents;

(d) The name and address of the person to be served, where necessary;

(e) The reasons for and details of any particular procedure or requirement that the Requesting State wishes to be followed, including a statement as to whether sworn or affirmed evidence or statements are required;

(f) Specification of any time-limit within which compliance with the request is desired;

(g) Such other information as is necessary for the proper execution of the request.

2. Requests, supporting documents and other communications made pursuant to this Treaty shall be accompanied by a translation into the language of the Requested State or another language acceptable to that State.

3. If the Requested State considers that the information contained in the request is not sufficient to enable the request to be dealt with, it may request additional information.

77/ This list can be reduced or expanded in bilateral negotiations.

ARTICLE 6

Execution of requests 78/

Subject to article 19, requests for assistance shall be carried out promptly, in the manner provided for by the law and practice of the Requested State. To the extent consistent with its law and practice, the Requested State shall carry out the request in the manner specified by the Requesting State.

ARTICLE 7

Return of material to the Requested State

Any property, as well as original records or documents, handed over to the Requesting State under this Treaty shall be returned to the Requested State as soon as possible unless the latter waives its right of return thereof.

ARTICLE 8

Limitation on use 79/

The Requesting State shall not, without the consent of the Requested State, use or transfer information or evidence provided by the Requested State for investigations or proceedings other than those stated in the request. However, in cases where the charge is altered, the material provided may be used in so far as the offence, as charged, is an offence in respect of which mutual assistance could be provided under this Treaty.

78/ More detailed provisions may be included concerning the provision of information on the time and place of execution of the request and requiring the Requested State to inform promptly the Requesting State in cases where significant delay is likely to occur or where a decision is made not to comply with the request and the reasons for refusal.

79/ Some countries may wish to omit this article or modify it, e.g. restrict it to fiscal offences.

ARTICLE 9

Protection of confidentiality 80/

Upon request:

(a) The Requested State shall use its best endeavours to keep confidential the request for assistance, its contents and its supporting documents as well as the fact of granting of such assistance. If the request cannot be executed without breaching confidentiality, the Requested State shall so inform the Requesting State, which shall then determine whether the request should nevertheless be executed;

(b) The Requesting State shall keep confidential evidence and information provided by the Requested State, except to the extent that the evidence and information is needed for the investigation and proceedings described in the request.

ARTICLE 10

Service of documents 81/

1. The Requested State shall effect service of documents that are transmitted to it for this purpose by the Requesting State.

2. A request to effect service of summonses shall be made to a Requested State not less than ... 82/ days before the date on which the appearance of a person is required. In urgent cases, the Requested State may waive the time requirement.

80/ Provisions relating to confidentiality will be important for many countries but may present problems to others. The nature of the provisions in individual treaties can be determined in bilateral negotiations.

81/ More detailed provisions relating to the service of documents, such as writs and judicial verdicts, can be determined bilaterally. Provisions may be desired providing for service of documents by mail or other manner, and providing for the forwarding of proof of service of the documents. For example, proof of service could be given by means of a receipt dated and signed by the person served or by means of a declaration made by the Requested State that service has been effected and stating the form and date of such service. One or other of these Documents could be sent promptly to the Requesting State. The Requested State could, if the Requesting State so requests, state whether service has been effected in accordance with the law of the Requested State. If service could not be effected, the reasons could be communicated promptly by the Requested State to the Requesting State.

82/ Depending on travel distance and related arrangements.

ARTICLE 11

Obtaining of evidence 83/

1. The Requested State shall, in conformity with its law and upon request, take the sworn or affirmed testimony, or otherwise obtain statements of persons or require them to produce items of evidence for transmission to the Requesting State.

2. Upon request of the Requesting State, the parties to the relevant proceedings in the Requesting State, their legal representatives and representatives of the Requesting State may, subject to the laws and procedures of the Requested State, be present at the proceedings.

ARTICLE 12

Right or obligation to decline to give evidence

1. A person who is required to give evidence in the Requested or Requesting State may decline to give evidence where either:

(a) The law of the Requested State permits or requires that person to decline to give evidence in similar circumstances in proceedings originating in the Requested State; or

(b) The law of the Requesting State permits or requires that person to decline to give evidence in similar circumstances in proceedings originating in the Requesting State.

2. If a person claims that there is a right or obligation to decline to give evidence under the law of the other State, the State where that person is present shall, with respect thereto, rely on a certificate of the competent authority of the other State as evidence of the existence or non-existence of that right or obligation.

ARTICLE 13

Availability of persons in custody to give evidence or to assist in investigations 84/

1. Upon request of the Requesting State, and if the Requested State agrees and its law so permits, a person in custody in the latter State may, subject to his or her consent, be temporarily transferred to the Requesting State to give evidence or to assist in the investigations.

83/ This article is concerned with the obtaining of evidence in judicial proceedings, the taking of a statement of a person by a less formal process and the production of items of evidence.

84/ In bilateral negotiations, provisions may also be introduced dealing with such matters as the modalities and time of restitution of evidence and the setting of a time-limit for the presence of the person in custody in the Requesting State.

2. While the person transferred is required to be held in custody under the law of the Requested State, the Requesting State shall hold that person in custody and shall return that person in custody to the Requested State at the conclusion of the matter in relation to which transfer was sought or at such earlier time as the person's presence is no longer required.

3. Where the Requested State advises the Requesting State that the transferred person is no longer required to be held in custody, that person shall be set at liberty and be treated as a person referred to in article 14.

ARTICLE 14

Availability of other persons to give evidence or assist in investigations 85/

1. The Requesting State may request the assistance of the Requested State in inviting a person:

(a) To appear in proceedings in relation to a criminal matter in the Requesting State unless that person is the person charged; or

(b) To assist in the investigations in relation to a criminal matter in the Requesting State.

2. The Requested State shall invite the person to appear as a witness or expert in proceedings or to assist in the investigations. Where appropriate, the Requested State shall satisfy itself that satisfactory arrangements have been made for the person's safety.

3. The request or the summons shall indicate the approximate allowances and the travel and subsistence expenses payable by the Requesting State.

4. Upon request, the Requested State may grant the person an advance, which shall be refunded by the Requesting State.

85/ Provisions relating to the payment of the expenses of the person providing assistance are contained in paragraph 3 of article 14. Additional details, such as provision for the payment of costs in advance, can be the subject of bilateral negotiations.

ARTICLE 15

Safe conduct 86/

1. Subject to paragraph 32 of this article, where a person is in the Requesting State pursuant to a request made under articles 13 or 14:

(a) That person shall not be detained, prosecuted, punished or subjected to any other restrictions of personal liberty in the Requesting State in respect of any acts or omissions or convictions that preceded the person's departure from the Requested State;

(b) That person shall not, without that person's consent, be required to give evidence in any proceeding or to assist in any investigation other than the proceeding or investigation to which the request relates.

2. Paragraph 1 of this article shall cease to apply if that person, being free to leave, has not left the Requesting State within a period of [15] consecutive days, or any longer period otherwise agreed on by the Parties, after that person has been officially told or notified that his or her presence is no longer required or, having left, has voluntarily returned.

3. A person who does not consent to a request pursuant to article 13 or accept an invitation pursuant to article 14 shall not, by reason thereof, be liable to any penalty or be subjected to any coercive measure, notwithstanding any contrary statement in the request or summons.

ARTICLE 16

Provision of publicly available documents and other records 87/

1. The Requested State shall provide copies of documents and records in so far as they are open to public access as part of a public register or otherwise, or in so far as they are available for purchase or inspection by the public.

2. The Requested State may provide copies of any other document or record under the same conditions as such document or record may be provided to its own law enforcement and judicial authorities.

86/ These provisions may be required as the only way of securing important evidence in proceedings involving serious national and transnational crime. However, as they may raise difficulties for some countries, the precise content of the article, including any additions or modifications, can be determined in bilateral negotiations.

87/ The question may arise whether this should be discretionary. This provision can be the subject of bilateral negotiations.

ARTICLE 17

Search and seizure 88/

The Requested State shall, in so far as its law permits, carry out requests for search and seizure and delivery of any material to the Requesting State for evidentiary purposes, provided that the rights of bona fide third parties are protected.

ARTICLE 18

Certification and authentication 89/

A request for assistance and the supporting documents thereto, as well as documents or other material supplied in response to such a request, shall not require certification or authentication.

ARTICLE 19

Costs 90/

The ordinary costs of executing a request shall be borne by the Requested State, unless otherwise determined by the Parties. If expenses of a substantial or extraordinary nature are or will be required to execute the request, the Parties shall consult in advance to determine the terms and conditions under which the request shall be executed as well as the manner in which the costs shall be borne.

88/ Bilateral arrangements may cover the provision of information on the results of search and seizure and the observance of conditions imposed in relation to the delivery of seized property.

89/ The laws of some countries require authentication before documents transmitted from other countries can be admitted in their courts, and, therefore, would require a clause setting out the authentication required.

90/ More detailed provisions may be included, for example, the Requested State would meet the ordinary cost of fulfilling the request for assistance except that the Requesting State would bear (a) the exceptional or extraordinary expenses required to fulfil the request, where required by the Requested State and subject to previous consultations; (b) the expenses associated with conveying any person to or from the territory of the Requested State, and any fees, allowances or expenses payable to that person while in the Requesting State pursuant to a request under articles 11, 13 or 14, paragraphs 3 and 4; and (c) the expenses associated with conveying custodial or escorting officers; (d) the expenses involved in reports of experts.

ARTICLE 20

Consultation

The Parties shall consult promptly, at the request of either, concerning the interpretation, the application or the carrying out of this Treaty either generally or in relation to a particular case.

ARTICLE 21

Final provisions

1. This Treaty is subject to (ratification, acceptance or approval). The instruments of (ratification, acceptance or approval) shall be exchanged as soon as possible.

2. This Treaty shall enter into force on the thirtieth day after the day on which the instruments of (ratification, acceptance or approval) are exchanged.

3. This Treaty shall apply to requests made after its entry into force, even if the relevant acts or omissions occurred prior to that date.

4. Either Contracting Party may denounce this Treaty by giving notice in writing to the other Party. Such denunciation shall take effect six months following the date on which it is received by the other Party.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

_____ _____

Done at _____ on _____ in the _____
and _____ languages (both) texts being equally authentic.
(all)

OPTIONAL PROTOCOL TO THE MODEL TREATY ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS CONCERNING THE PROCEEDS OF CRIME 90a/

1. In this Protocol "proceeds of crime" means any property suspected, or found by a court, to be property directly or indirectly derived or realized as a result of the commission of an offence or to represent the value of property and other benefits derived from the commission of an offence.

2. The Requested State shall, upon request, endeavour to ascertain whether any proceeds of the crime alleged are located within its jurisdiction and shall notify the Requesting State of the results of its inquiries. In making the request, the Requesting State shall notify the Requested State of the basis of its belief that such proceeds may be located within its jurisdiction.

3. In pursuance of a request made under paragraph 2 of this Protocol, the Requested State shall endeavour to trace assets, investigate financial dealings, and obtain other information or evidence that may help to secure the recovery of proceeds of crime.

4. Where, pursuant to paragraph 2 of this Protocol, suspected proceeds of crime are found, the Requested State shall upon request take such measures as are permitted by its law to prevent any dealing in, transfer or disposal of, those suspected proceeds of crime, pending a final determination in respect of those proceeds by a court of the Requesting State.

5. The Requested State shall, to the extent permitted by its law, give effect to or permit enforcement of a final order forfeiting or confiscating the proceeds of crime made by a court of the Requesting State or take other appropriate action to secure the proceeds following a request by the Requesting State. 91/

90a/ This Optional Protocol is included on the ground that questions of forfeiture are conceptually different from, although closely related to, matters generally accepted as falling within the description of mutual assistance. However, States may wish to include these provisions in the text because of their importance in dealing with organized crime. Moreover, assistance in forfeiting the proceeds of crime has now emerged as a new instrument in international co-operation. Provisions similar to those outlined in the Optional Protocol appear in many bilateral assistance treaties. Further details can be provided in bilateral arrangements. One matter that could be considered is the need for other provisions dealing with issues related to bank secrecy. An addition could, for example, be made to paragraph 4 providing that the Requested State shall, upon request, take such measures as are permitted by its law to require compliance with monitoring orders by financial institutions. Provision could be made for the sharing of the proceeds of crime between the Contracting States or for consideration of the disposal of the proceeds on a case-by-case basis.

91/ The Parties might consider widening the scope of the Optional Protocol by the inclusion of references to victims' restitution and the recovery of fines imposed as a sentence in a criminal prosecution.

6. The Parties shall ensure that the rights of bona fide third parties shall be respected in the application of this Protocol.

In witness whereof, the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

_____ _____

Done at _____ on _____ in the _____
and _____ languages (both) (all) texts being equally authentic.

12. Model treaty on the transfer of proceedings in criminal matters

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Recommends to the General Assembly the adoption of the following draft resolution:

Model Treaty on the Transfer of Proceedings in Criminal Matters

The General Assembly,

Recalling the Milan Plan of Action, 92/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and endorsed by the General Assembly in its resolution 40/32 of 29 November 1985,

Recalling also the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, 93/ which, in principle 37, stipulate that the United Nations should prepare model instruments suitable for use as international and regional conventions and as guides for national implementing legislation,

Recalling further resolution 12 of the Seventh Congress 94/ on the transfer of proceedings in criminal matters, in which the Committee on Crime Prevention and Control was requested to study this subject and to consider the possibility of formulating a model agreement in this area,

Acknowledging the valuable contributions made by Governments, non-governmental organizations and individual experts to the drafting of the model treaty on the transfer of proceedings in criminal matters, in particular

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92/ Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

93/ Ibid., sect. B.

94/ Ibid., sect. E.

best copy available

the International Expert Meeting on the United Nations and Law Enforcement, held under the auspices of the United Nations at Baden, Austria from 16 to 19 November 1987, the interregional preparatory meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on United Nations norms and guidelines in crime prevention and criminal justice and implementation and priorities for further standard setting 95/ and the regional preparatory meetings for the Eighth Congress,

Convinced that the establishment of bilateral and multilateral arrangements for the transfer of proceedings in criminal matters will greatly contribute to the development of more effective international co-operation aimed at controlling crime,

Conscious of the need to respect human dignity and recalling the rights conferred upon every person involved in criminal proceedings, as embodied in the Universal Declaration of Human Rights 96/ and the International Covenant on Civil and Political Rights, 97/

Recognizing the importance of the model treaty as an effective way of dealing with the complex aspects, consequences and modern evolution of transnational crime,

1. Adopts the Model Treaty on the Transfer of Proceedings in Criminal Matters, contained in the annex to the present resolution, as a useful framework that could be of assistance to States interested in negotiating and concluding bilateral or multilateral treaties aimed at improving co-operation in matters of crime prevention and criminal justice;

2. Invites Member States, if they have not yet established treaty relations with other States in regard to transfer of proceedings in criminal matters, or if they wish to revise existing treaty relations, to take the Model Treaty into account whenever doing so;

3. Urges Member States to strengthen international co-operation in criminal justice;

4. Also urges Member States to inform the Secretary-General periodically of efforts undertaken to establish arrangements for the transfer of proceedings in criminal matters;

5. Requests the Committee on Crime Prevention and Control to conduct periodic reviews of the progress attained in this field;

6. Requests the Secretary-General to assist Member States, at their request, in the development of treaties on the transfer of proceedings in criminal matters and to report regularly thereon to the Committee.

95/ A/CONF.144/IPM.5.

96/ General Assembly resolution 217 A (III).

97/ General Assembly resolution 2200 A (XXI), annex.

ANNEX

Model Treaty on the Transfer of Proceedings in Criminal Matters

PREAMBLE

The _____ and the _____

Desirous of further strengthening international co-operation and mutual assistance in criminal justice, on the basis of the principles of respect for national sovereignty and jurisdiction and of non-interference in the internal affairs of States,

Believing that such co-operation should further the ends of justice, the social resettlement of offenders and the interests of the victims of crime,

Bearing in mind that the transfer of proceedings in criminal matters contributes to effective administration of justice and to reducing conflicts of competence,

Aware that the transfer of proceedings in criminal matters can help to avoid pre-trial detention and thus reduce the prison population,

Convinced, therefore, that the transfer of proceedings in criminal matters should be promoted,

Have agreed as follows:

ARTICLE 1

Scope of application

1. When a person is suspected of having committed an offence under the law of a State which is a Contracting Party, that State may, if the interests of the proper administration of justice so require, request another State which is a Contracting Party to take proceedings in respect of this offence.

2. For the purpose of applying this Treaty, the Contracting Parties shall take the necessary legislative measures to ensure that a request of the Requesting State to take proceedings shall allow the Requested State to exercise the necessary jurisdiction.

ARTICLE 2

Channels of communications

A request to take proceedings shall be made in writing. The request, supporting documents and subsequent communication shall be transmitted through diplomatic channels, directly between the Ministries of Justice or any other authorities designated by the Parties.

ARTICLE 3

Required documents

1. The request to take proceedings shall contain or be accompanied by the following information:

(a) The authority presenting the request;

(b) A description of the act for which transfer of proceedings is being requested, including the specific time and place of the offence;

(c) A statement on the results of investigations which substantiate the suspicion of an offence;

(d) The legal provisions of the Requesting State on the basis of which the act is considered to be an offence;

(e) A reasonably exact statement on the identity, nationality and residence of the suspected person.

2. The documents submitted in support of a request to take proceedings shall be accompanied by a translation into the language of the Requested State or into another language acceptable to that State.

ARTICLE 4

Certification and authentication

Subject to national law and unless the Parties decide otherwise, a request to take proceedings and the supporting documents thereto, as well as the documents and other material supplied in response to such a request, shall not require certification or authentication. 98/

ARTICLE 5

Decision on the request

The competent authorities of the Requested State shall examine what action to take on the request to take proceedings in order to comply, as fully as possible, with the request under their own law, and shall promptly communicate their decision to the Requesting State.

98/ The laws of some countries require authentication before documents transmitted from other countries can be admitted in their courts and, therefore, would require a clause setting out the authentication required.

ARTICLE 6

Dual criminality

A request to take proceedings can be complied with only if the act on which the request is based would be an offence if committed in the territory of the Requested State.

ARTICLE 7

Grounds for refusal 99/

If the Requested State refuses acceptance of a request for transfer of proceedings, it shall communicate the reasons for refusal to the Requesting State. Acceptance may be refused if:

(a) The suspected person is not a national of or ordinary resident in the Requested State;

(b) The act is an offence under military law, which is not also an offence under ordinary criminal law;

(c) The offence is in connection with taxes, duties, customs or exchange;

(d) The offence is regarded by the Requested State as being of a political nature.

ARTICLE 8

The position of the suspected person

1. The suspected person may express to either State his or her interest in the transfer of the proceedings. Similarly, such interest may be expressed by the legal representative or close relatives of the suspected person.

2. Before a request for transfer of proceedings is made, the Requesting State shall, if practicable, allow the suspected person to present his or her views on the alleged offence and the intended transfer, unless that person has absconded or otherwise obstructed the course of justice.

99/ When negotiating on the basis of this Model Treaty, States may wish to add other grounds for refusal or conditions to the list in this section, relating, for example, to the nature or gravity of the offence, to the protection of fundamental human rights, or to considerations of public order.

ARTICLE 9

The rights of the victim

The Requesting and Requested States shall ensure in the transfer of proceedings that the rights of the victim of the offence, in particular his or her right to restitution or compensation, shall not be affected as a result of the transfer. If a settlement of the claim of the victim has not been reached before the transfer, the Requested State shall permit the representation of the claim in the transferred proceedings, if its law provides for such a possibility. In the event of the death of the victim, these provisions shall apply to his or her dependants accordingly.

ARTICLE 10

Effects of the transfer of proceedings on the Requesting State (ne bis in idem)

Upon acceptance by the Requested State of the request to take proceedings against the suspected person, the Requesting State shall provisionally discontinue prosecution, except necessary investigation, including judicial assistance to the Requested State, until the Requested State informs the Requesting State that the case has been finally disposed of. From that date on, the Requesting State shall definitely refrain from further prosecution of the same offence.

ARTICLE 11

Effects of the transfer of proceedings on the Requested State

1. The proceedings transferred upon agreement shall be governed by the law of the Requested State. When charging the suspected person under its law, the Requested State shall make the necessary adjustment with respect to particular elements in the legal description of the offence. Where the competence of the Requested State is based on the provision set forth in paragraph 2 of article 1, the sanction pronounced in that State shall not be more severe than that provided by the law of the Requesting State.

2. As far as compatible with the law of the Requested State, any act with a view to proceedings or procedural requirements performed in the Requesting State in accordance with its law shall have the same validity in the Requested State as if the act had been performed in or by the authorities of that State.

3. The Requested State shall inform the Requesting State of the decision taken as a result of the proceedings. To this end a copy of any final decision shall be transmitted to the Requesting State upon request.

READEX FICHE

ARTICLE 12

Provisional measures

When the Requesting State announces its intention to transmit a request for transfer of proceedings, the Requested State may, upon a specific request made for this purpose by the Requesting State, apply all such provisional measures, including provisional detention and seizure, as could be applied under its own law if the offence in respect of which transfer of proceedings is requested had been committed in its territory.

ARTICLE 13

The plurality of criminal proceedings

When criminal proceedings are pending in two or more States against the same suspected person in respect of the same offence, the States concerned shall conduct consultations to decide which of them alone should continue the proceedings. An agreement reached thereupon shall have the consequences of a request for transfer of proceedings.

ARTICLE 14

Costs

Any costs incurred by a Contracting Party because of a transfer of proceedings shall not be refunded, unless otherwise agreed by both the Requesting and Requested States.

ARTICLE 15

Final provisions

1. This Treaty is subject to (ratification, acceptance or approval). The instruments of (ratification, acceptance or approval) shall be exchanged as soon as possible.

2. This Treaty shall enter into force on the thirtieth day after the day on which the instruments of ratification are exchanged.

3. This Treaty shall apply to requests made after its entry into force, even if the relevant acts or omissions occurred prior to that date.

4. Either Contracting Party may denounce this Treaty by giving notice in writing to the other Party. Such denunciation shall take effect six months following the date on which it is received by the other Party.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

_____ _____

Done at _____ on _____ in the _____
and _____ languages (both) texts being equally authentic.
(all)

13. Model treaty on the transfer of supervision of offenders conditionally sentenced or conditionally released

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Recommends to the General Assembly the adoption of the following draft resolution:

Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released

The General Assembly,

Bearing in mind the Milan Plan of Action, 100/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and endorsed by the General Assembly in its resolution 40/32 of 29 November 1985,

Bearing in mind also the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, 101/ which, in principle 37, stipulate that the United Nations should prepare model instruments suitable for use as international and regional conventions and as guides for national implementing legislation,

Recalling resolution 13 of the Seventh Congress, 102/ on the transfer of supervision of foreign offenders who have been conditionally sentenced or conditionally released, in which the Committee on Crime Prevention and Control was requested to study this subject and to consider the possibility of formulating a model treaty in this area,

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100/ Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

101/ Ibid., sect. B.

102/ Ibid., sect. E.

Acknowledging the valuable contributions made by Governments, non-governmental organizations and individual experts to the drafting of the model treaty on the transfer of supervision of offenders conditionally sentenced or conditionally released, in particular the International Expert Meeting on the United Nations and Law Enforcement, held under the auspices of the United Nations at Baden, Austria, from 16 to 19 November 1987, the interregional preparatory meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on United Nations norms and guidelines in crime prevention and criminal justice and implementation and priorities for further standard setting 103/ and the regional preparatory meetings for the Eighth Congress,

Convinced that the establishment of bilateral and multilateral arrangements for transfer of supervision of offenders conditionally sentenced or conditionally released will greatly contribute to the development of more effective international co-operation in penal matters,

Conscious of the need to respect human dignity and recalling the rights conferred upon every person involved in criminal proceedings, as embodied in the Universal Declaration of Human Rights 104/ and the International Covenant on Civil and Political Rights, 105/

1. Adopts the Model Treaty on Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released, contained in the annex to the present resolution, as a useful framework that could be of assistance to States interested in negotiating and concluding bilateral or multilateral treaties aimed at improving co-operation in matters of crime prevention and criminal justice;

2. Invites Member States, if they have not yet established treaty relations with other States in the area of extradition, or if they wish to revise existing treaty relations, to take into account the Model Treaty whenever doing so;

3. Urges all Member States to strengthen international co-operation in criminal justice;

4. Also urges Member States to inform the Secretary-General periodically of efforts undertaken to establish arrangements on the transfer of supervision of offenders conditionally sentenced or conditionally released;

5. Requests the Committee on Crime Prevention and Control to conduct periodic reviews of the progress attained in this field;

103/ A/CONF.144/IPM.5.

104/ General Assembly resolution 217 A (III).

105/ General Assembly resolution 2200 A (XXI), annex.

6. Requests the Secretary-General to assist Member States, at their request, in the development of treaties on the transfer of supervision of offenders conditionally sentenced or conditionally released and to report regularly thereon to the Committee.

ANNEX

Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released

The _____ and the _____

Desirous of further strengthening international co-operation and mutual assistance in criminal justice, on the basis of the principles of respect for national sovereignty and jurisdiction and of non-interference in the internal affairs of States,

Believing that such co-operation should further the ends of justice, the social resettlement of sentenced persons and the interest of the victims of crime,

Bearing in mind that the transfer of supervision of offenders conditionally sentenced or conditionally released can contribute to an increase in the use of alternatives to imprisonment,

Aware that supervision in the home country of the offender rather than enforcement of the sentence in a country where the offender has no roots also contributes to an earlier and more effective reintegration into society,

Convinced, therefore, that the social rehabilitation of offenders and the increased application of alternatives to imprisonment would be promoted by facilitating the supervision of conditionally sentenced or conditionally released offenders in their State of ordinary residence,

Have agreed as follows:

ARTICLE 1

Scope of application

1. This Treaty shall be applicable, if, according to a final court decision, a person has been found guilty of an offence and has been:

(a) Placed on probation without sentence having been pronounced;

(b) Given a suspended sentence involving deprivation of liberty;

(c) Given a sentence, the enforcement of which has been modified (parole) or conditionally suspended, in whole or in part, either at the time of the sentence or subsequently.

2. The State where the decision was taken (sentencing State) may request another State (administering State) to take responsibility for applying the terms of the decision (transfer of supervision).

ARTICLE 2

Channels of communications

A request for the transfer of supervision shall be made in writing. The request, supporting documents and subsequent communication shall be transmitted through diplomatic channels, directly between the Ministries of Justice or any other authorities designated by the Parties.

ARTICLE 3

Required documents

1. A request for the transfer of supervision shall contain all necessary information on the identity, nationality and residence of the sentenced person. The request shall be accompanied by the original or a copy of any court decision referred to in the preceding provision and a certificate that this decision is final.

2. The documents submitted in support of a request for transfer of supervision shall be accompanied by a translation into the language of the requested State or into another language acceptable to that State.

ARTICLE 4

Certification and authentication

Subject to national law and unless the Parties decide otherwise, a request for transfer of supervision and the supporting documents thereto, as well as the documents and other material supplied in response to such a request, shall not require certification or authentication. 106/

ARTICLE 5

Decision on the request

The competent authorities of the administering State shall examine what action to take on the request for supervision in order to comply, as fully as possible, with the request under their own law, and shall promptly communicate their decision to the sentencing State.

106/ The laws of some countries require authentication before documents transmitted from other countries can be admitted in their courts and, therefore, would require a clause setting out the authentication required.

ARTICLE 6

Dual criminality 107/

A request for transfer of supervision can be complied with only if the act on which the request is based would constitute an offence if committed in the territory of the administering State.

ARTICLE 7

Grounds for refusal 108/

If the administering State refuses acceptance of a request for transfer of supervision, it shall communicate the reasons for refusal to the sentencing State. Acceptance may be refused where:

(a) The sentenced person is not an ordinary resident in the administering State;

(b) The act is an offence under military law, which is not also an offence under ordinary criminal law;

(c) The offence is in connection with taxes, duties, customs or exchange;

(d) The offence is regarded by the administering State as being of a political nature;

(e) The administering State, under its own law, can no longer carry out the supervision or enforce the sanction in the event of revocation because of lapse of time.

ARTICLE 8

The position of the sentenced person

Whether sentenced or standing trial, a person may express to the sentencing State his or her interest in a transfer of supervision and his or her willingness to fulfil any conditions to be imposed. Similarly, such interest may be expressed by his or her legal representative or close relatives. Where appropriate, the Contracting States shall inform the offender or his or her close relatives of the possibilities under this Treaty.

107/ When negotiating on the basis of this Model Treaty, States may wish to waive the requirement of dual criminality.

108/ When negotiating on the basis of this Model Treaty, States may wish to add other grounds for refusal or conditions to the list, relating in this section, for example, to the nature or gravity of the offence, to the protection of fundamental human rights, or to considerations of public order.

ARTICLE 9

The rights of the victim

The sentencing State and the administering State shall ensure in the transfer of supervision that the rights of the victims of the offence, in particular his or her rights to restitution or compensation, shall not be affected as a result of the transfer. In the event of the death of the victim, this provision shall apply to his or her dependants accordingly.

ARTICLE 10

The effects of the transfer of supervision on the sentencing State

The acceptance by the administering State of the responsibility for applying the terms of the decision rendered in the sentencing State shall extinguish the competence of the latter State to enforce the sentence.

ARTICLE 11

The effects of the transfer of supervision on the administering State

1. The supervision transferred upon agreement and the subsequent procedure shall be carried out in accordance with the law of the administering State. That State alone shall have the right of revocation. That State may, to the extent necessary, adapt to its own law the conditions or measures prescribed, provided that such conditions or measures are, in terms of their nature or duration, not more severe than those pronounced in the sentencing State.

2. If the administering State revokes the conditional sentence or conditional release, it shall enforce the sentence in accordance with its own law without, however, going beyond the limits imposed by the sentencing State.

ARTICLE 12

Review, pardon and amnesty

1. The sentencing State alone shall have the right to decide on any application to reopen the case.

2. Each Party may grant pardon, amnesty or commutation of the sentence in accordance with the provisions of its Constitution or other laws.

ARTICLE 13

Information

1. The Contracting Parties shall keep each other informed, in so far as it is necessary, of all circumstances likely to affect measures of supervision or enforcement in the administering State. To this end they shall transmit to each other copies of any relevant decisions in this respect.

2. After expiration of the period of supervision, the administering State shall provide to the sentencing State, at its request, a final report concerning the supervised person's conduct and compliance with the measures imposed.

ARTICLE 14

Costs

Supervision and enforcement costs incurred in the administering State shall not be refunded, unless otherwise agreed by both the sentencing State and the administering State.

ARTICLE 15

Final provisions

1. This Treaty is subject to (ratification, acceptance or approval). The instruments of (ratification, acceptance or approval) shall be exchanged as soon as possible.

2. This Treaty shall enter into force on the thirtieth day after the day on which the instruments of ratification are exchanged.

3. This Treaty shall apply to requests made after its entry into force, even if the relevant acts or omissions occurred prior to that date.

4. Either Contracting Party may denounce this Treaty by giving notice in writing to the other Party. Such denunciation shall take effect six months following the date on which it is received by the other Party.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

_____ _____

Done at _____ on _____
in the _____ and _____
languages (both) texts being equally authentic.
(all)

B. Other instruments adopted by the Congress

2. The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders also adopted the following instruments:

1. Model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling the Milan Plan of Action 109/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and approved by the General Assembly in resolution 40/32 of 29 November 1985,

Bearing in mind the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, 110/ among which principle 37 requires that the United Nations should prepare model instruments suitable for use as international and regional agreements and as guides for national implementing legislation,

Recalling also resolution 1 of the Seventh Congress, 111/ in which Member States were urged to increase their activity at the international level, in order to combat organized crime and entering into bilateral assistance treaties,

Noting that the Economic and Social Council, in its resolution 1989/62 of 24 May 1989, decided that the topic of transnational crimes against the cultural patrimony of countries should be included under item 3 of the provisional agenda of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in order to explore the possibilities for formulating comprehensive policies of international co-operation for the prevention of such offences,

Desirous of promoting co-operation to prevent unlawful acts that encroach on the historical and cultural legacy of peoples,

Bearing in mind that the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, 112/ adopted by the United Nations Educational, Scientific and Cultural Organization, which entered into force on 24 April 1972, establishes in its declarative section the duty of every State to protect the heritage represented by the cultural

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109/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985 (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

110/ Ibid., sect. B.

111/ Ibid., sect. E.

112/ United Nations Educational, Scientific and Cultural Organization, Records of the General Conference, Sixteenth Session, vol. I, Resolutions, pp. 135-141.

property located on its territory against the dangers of robbery, clandestine excavation and illicit export, as well as a commitment to combat these practices by every available means, particularly with respect to stopping them while in progress, eliminating their causes and providing the assistance required to secure the return of the property in question,

Mindful of the declarations and legal instruments that provide, as an essential undertaking, for the adoption, both nationally and internationally, of the most effective possible measures for adequately protecting, defending and recovering cultural property and for combating such acts as may damage or diminish those riches of an archaeological, historical and artistic nature that represent the expression of the national character of their respective peoples,

Convinced that the best way of achieving these objectives is through the co-operation and mutual help that must exist in order to succeed in preventing crimes against cultural heritage and in returning the property in question to the countries from which it has been illicitly removed,

Conscious of the need to respect human dignity and recalling the principles set forth in the Universal Declaration of Human Rights 113/ and the International Covenant on Economic, Social and Cultural Rights, as well as in the International Covenant on Civil and Political Rights, 114/

Recognizing the importance of the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property as a means of preventing crimes of this type and securing the return of property that has been illicitly removed,

1. Recommends that Member States consider the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property, contained in the annex to the present resolution, as a framework that may be of assistance to interested States in negotiating and drawing up bilateral agreements designed to improve co-operation in the area of crime prevention and criminal justice;

2. Invites those Member States that have not yet established treaty relations with other States for the prevention of crimes that infringe on the cultural heritage of peoples, or that wish to modify these relations if they already exist, to bear in mind, when so doing, the draft model treaty;

3. Urges all Member States to continue to strengthen international co-operation and mutual assistance in resolving these problems;

4. Calls upon Member States to inform the Secretary-General periodically of the efforts made to conclude agreements for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property;

5. Requests the Committee on Crime Prevention and Control to examine periodically the progress achieved in this area.

113/ General Assembly resolution 217 A (III).

114/ General Assembly resolution 2200 A (XXI), annex.

ANNEX

Model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property 115/

The _____ and _____

Conscious of the need to co-operate in the field of criminal justice,

Wishing to add to the effectiveness of the co-operation between their two countries in combating criminal activities which involve movable cultural property through the introduction of measures for impeding illicit transnational trafficking in movable cultural property whether or not it has been stolen, the imposition of appropriate and effective administrative and penal sanctions and the provision of a means for restitution,

Have agreed as follows:

ARTICLE 1

Scope of application and definition 116/

1. For the purposes of this treaty, movable cultural property 117/ shall be understood as referring to property which, on religious or secular grounds, is specifically designated by a State Party as being subject to export control by reason of its importance for archaeology, prehistory, history, literature, art or science, and as belonging to one or more of the folowing categories:

(a) Rare collections and specimens of fauna, flora, minerals and anatomy, and objects of paleontological interest;

(b) Property relating to history, including the history of science and technology, military history, and the history of societies and religions, as well as to the lives of leaders, thinkers, scientists and artists and other national figures, and to events of national importance;

115/ An alternative title preferred by the drafting group of experts is "Model treaty concerning crimes relating to the restitution of movable cultural property".

116/ Suggested alternatives to article 1, paragraph 1, are: (i) "This treaty covers all items of movable cultural property specifically designated as such by a State Party, and subject to export control by that State Party."; or (ii) "This treaty covers those items of movable cultural property specifically agreed to between the States Parties as being subject to export control."

117/ The categories follow closely the list contained in article 1 of the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, of 1970. However, this list may not be exhaustive, and States Parties may wish to add other categories.

(c) Products of archaeological excavations or discoveries, including clandestine excavations or discoveries, whether on land or under water;

(d) Elements of artistic or historical monuments or archaeological sites which have been dismantled;

(e) Antiquities, including tools, ceramics, ornaments, musical instruments, pottery, inscriptions of all kinds, coins, engraved seals, jewels, weapons and funerary remains of any description;

(f) Materials of anthropological, historical or ethnological interest;

(g) Property of artistic interest, such as:

(i) Pictures, paintings and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand);

(ii) Original works of statuary art and sculpture in any material;

(iii) Original engravings, prints, lithographs and art photographs;

(iv) Original artistic assemblages and montages in any material;

(h) Rare manuscripts and incunabula, old books, documents and publications of special historical, artistic, scientific, literary or other interest, singly or in collections;

(i) Postage, revenue and similar stamps, either singly or in collections;

(j) Archives, including phonographic, photographic and cinematographic archives;

(k) Articles of furniture, furnishings and muscial instruments of more than 100 years of age.

2. This treaty applies to movable cultural property stolen in or illicitly exported from the other State Party after the coming into force of the treaty. 118/

ARTICLE 2

General principles

1. Each State Party undertakes:

(a) To take the necessary measures to prohibit the import and export of movable cultural property (i) which has been stolen in the other State Party or (ii) which has been illicitly exported from the other State Party;

118/ States Parties may wish to consider providing for a period of limitation after which the right to request recovery of stolen or illicitly exported movable cultural property will be extinguished.

(b) To take the necessary measures to prohibit the acquisition of, and dealing within its territory with, movable cultural property which has been imported contrary to the prohibitions resulting from the implementation of subparagraph (a) above;

(c) To legislate in order to prevent persons and institutions within its territory from entering into international conspiracies with respect to movable cultural property;

(d) To provide information concerning its stolen movable cultural property to an international data base agreed upon between the States Parties; 119/

(e) To take the measures necessary to ensure that the purchaser of stolen movable cultural property which is listed on the international data base is not considered to be a purchaser who has acquired such property in good faith; 120/

(f) To introduce a system whereby the export of movable cultural property is authorized by the issue of an export certificate; 121/

(g) To take the measures necessary to ensure that a purchaser of imported movable cultural property which is not accompanied by an export certificate issued by the other State Party and who did not acquire the movable cultural property prior to the entry into force of this treaty shall not be considered to be a person who has acquired the movable cultural property in good faith; 122/

(h) To use all the means at its disposal, including the fostering of public awareness, to combat the illicit import and export, theft, illicit excavation and illicit dealing in movable cultural property.

2. Each State Party undertakes to take the necessary measures to recover and return, at the request of the other State Party, any movable cultural property which is covered by subparagraph (a) above.

119/ Further developments in this field will provide the international community, particularly potential States Parties, with an opportunity to implement this method of crime prevention. The United Nations Congresses on the Prevention of Crime and the Treatment of Offenders may wish to develop initiatives in this direction.

120/ This provision is intended to supplement, and not be in substitution for, the normal rules relating to good faith acquisition.

121/ This procedure is consistent with the validation procedure described in article 6 of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

122/ States Parties should consider adding certain types of offences against movable cultural property to the list of extraditable offences covered by an extradition treaty.

ARTICLE 3

Sanctions 122/

Each State Party undertakes to impose sanctions 123/ upon:

(a) Persons or institutions responsible for the illicit import or export of movable cultural property;

(b) Persons or institutions that knowingly acquire or deal in stolen or illicitly imported movable cultural property;

(c) Persons or institutions that enter into international conspiracies to obtain, export or import movable cultural property by illicit means.

ARTICLE 4

Procedures

1. Requests for recovery and return shall be made through diplomatic channels. The requesting State Party shall furnish, at its expense, the documentation and other evidence, including the date of export, necessary to establish its claim for recovery and return.

2. All expenses incidental to the return and delivery of the movable cultural property shall be borne by the requesting State Party, 124/ and no person or institution shall be entitled to claim any form of compensation from the State Party returning the property claimed. Neither shall the requesting State Party be required to compensate in any way such persons or institutions as may have participated in illegally sending abroad the property in question, although it must pay fair compensation 124/ to any person or institution that in good faith acquired or was in legal possession of the property. 125/

3. Both parties agree not to levy any customs or other duties on such movable property as may be discovered and returned in accordance with the present treaty.

4. The States Parties agree to make available to each other such information as will assist in combating crimes against movable cultural property. 126/

123/ States Parties may wish to consider establishing minimum penalties for certain offences.

124/ States Parties may wish to consider whether the expenses and/or the expense of providing compensation should be shared between them.

125/ States Parties may wish to consider the position of a blameless possessor who has inherited or otherwise gratuitously acquired a cultural object which had been previously dealt with in bad faith.

126/ Some States Parties may need to preface article 4, paragraph 3, by the following: "Subject to domestic laws, particularly those concerning access to information and the protection of privacy, ...".

5. Each State Party shall provide information concerning laws which protect its movable cultural property to an international data base agreed upon between the States Parties. 127/

ARTICLE 5

Final provisions 128/

1. This treaty is subject to (ratification, acceptance or approval). The instruments of (ratification, acceptance or approval) shall be exchanged as soon as possible, through diplomatic channels.

2. This treaty shall come into force on the thirtieth day after the day on which the instruments of (ratification, acceptance or approval) are exchanged.

3. Either State Party may denounce this treaty by giving notice in writing to the other State Party. Such denunciation shall take effect six months after the date on which such notice is received by the other State Party.

4. This treaty is intended to be complementary to, and does not in any way exclude, participation in other international arrangements.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this treaty.

_____ _____

Done at _____ on _____
in the _____ and _____ languages, both texts being equally authentic.

_____

127/ It should be noted that General Assembly resolution 44/18 of 6 November 1989, and quite a number of resolutions of the General Conference of UNESCO have invited member States to establish, with the assistance of UNESCO, national inventories of cultural property. At the date of the drafting of this treaty, national legislative texts on the protection of cultural movable property from 76 countries have been collected, published and disseminated by UNESCO.

128/ States Parties may wish to consider providing for a process for the resolution of disputes concerning the treaty.

2. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling the Milan Plan of Action, 129/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and endorsed by the General Assembly in its resolution 40/32 of 29 November 1985,

Recalling also resolution 14 of the Seventh Congress, 130/ in which the Committee on Crime Prevention and Control was called upon to consider measures for the more effective implementation of the Code of Conduct for Law Enforcement Officials,

Taking note with appreciation of the work accomplished, in pursuance of resolution 14 of the Seventh Congress, 130/ by the Committee, by the interregional preparatory meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on United Nations norms and guidelines in crime prevention and criminal justice and implementation and priorities for further standard setting, 131/ and by the regional preparatory meetings for the Eighth Congress,

1. Adopts the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials contained in the annex to the present resolution;

2. Recommends the Basic Principles for national, regional and interregional action and implementation, taking into account the political, economic, social and cultural circumstances and traditions of each country;

3. Invites Member States to take into account and to respect the Basic Principles within the framework of their national legislation and practice;

4. Also invites Member States to bring the Basic Principles to the attention of law enforcement officials and other members of the executive branch of government, judges, lawyers, the legislature and the public in general;

5. Further invites Member States to inform the Secretary-General every five years, beginning in 1992, of the progress achieved in the implementation of the Basic Principles, including their dissemination, their incorporation into domestic legislation, practice, procedures and policies, the problems faced in their implementation at the national level and assistance that might be needed from the international community, and requests the Secretary-General to report thereon to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

129/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985 (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

130/ Ibid., sect. E.

131/ A/CONF.144/IPM.5.

6. Appeals to all Governments to promote seminars and training courses at the national and regional levels on the role of law enforcement and the need for restraints on the use of force and firearms by law enforcement officials;

7. Urges the regional commissions, the regional and interregional institutes on crime prevention and criminal justice, the specialized agencies and other entities within the United Nations system, other intergovernmental organizations concerned and non-governmental organizations in consultative status with the Economic and Social Council to become actively involved in the implementation of the Basic Principles and to inform the Secretary-General of the efforts made to disseminate and implement the Basic Principles and the extent of their implementation, and requests the Secretary-General to include this information in his report to the Ninth Congress;

8. Calls upon the Committee on Crime Prevention and Control to consider, as a matter of priority, ways and means of ensuring the effective implementation of the present resolution;

9. Requests the Secretary-General:

(a) To take steps, as appropriate, to bring this resolution to the attention of Governments and all United Nations bodies concerned, and to provide for the widest possible dissemination of the Basic Principles;

(b) To include the Basic Principles in the next edition of the United Nations publication entitled Human Rights: A Compilation of International Instruments;

(c) To provide Governments, at their request, with the services of experts and regional and interregional advisers to assist in implementing the Basic Principles and to report to the Ninth Congress on the technical assistance and training actually provided;

(d) To report to the Committee, at its twelfth session, on the steps taken to implement the Basic Principles;

10. Requests the Ninth Congress and its preparatory meetings to consider the progress achieved in the implementation of the Basic Principles.

ANNEX

Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

Whereas the work of law enforcement officials 132/ is a social service of great importance and there is, therefore, a need to maintain and, whenever necessary, to improve the working conditions and status of these officials,

Whereas a threat to the life and safety of law enforcement officials must be seen as a threat to the stability of society as a whole,

Whereas law enforcement officials have a vital role in the protection of the right to life, liberty and security of the person, as guaranteed in the Universal Declaration of Human Rights 133/ and reaffirmed in the International Covenant on Civil and Political Rights, 134/

Whereas the Standard Minimum Rules for the Treatment of Prisoners 135/ provide for the circumstances in which prison officials may use force in the course of their duties,

Whereas article 3 of the Code of Conduct for Law Enforcement Officials 135/ provides that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty,

Whereas the preparatory meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Varenna, Italy, agreed on elements to be considered in the course of further work on restraints on the use of force and firearms by law enforcement officials, 136/

Whereas the Seventh Congress, in its resolution 14, 137/ inter alia, emphasizes that the use of force and firearms by law enforcement officials should be commensurate with due respect for human rights,

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132/ In accordance with the commentary to article 1 of the Code of Conduct for Law Enforcement Officials, the term "law enforcement officials" includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention. In countries where police powers are exercised by military authorities, whether uniformed or not, or by State security forces, the definition of law enforcement officials shall be regarded as including officers of such services.

133/ General Assembly resolution 217 A (III).

134/ General Assembly resolution 2200 A (XXI), annex.

135/ See Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.88.XIV.1), sect. G.

136/ A/CONF.121/IPM.3, para. 34.

137/ See Seventh United Nations Congress ..., chap. I, sect. E.

Whereas the Economic and Social Council, in its resolution 1986/10, section IX, of 21 May 1986, invited Member States to pay particular attention in the implementation of the Code to the use of force and firearms by law enforcement officials, and the General Assembly, in its resolution 41/149 of 4 December 1986, inter alia, welcomed this recommendation made by the Council,

Whereas it is appropriate that, with due regard to their personal safety, consideration be given to the role of law enforcement officials in relation to the administration of justice, to the protection of the right to life, liberty and security of the person, to their responsibility to maintain public safety and social peace and to the importance of their qualifications, training and conduct,

The basic principles set forth below, which have been formulated to assist Member States in their task of ensuring and promoting the proper role of law enforcement officials, should be taken into account and respected by Governments within the framework of their national legislation and practice, and be brought to the attention of law enforcement officials as well as other persons, such as judges, prosecutors, lawyers, members of the executive branch and the legislature, and the public.

General provisions

1. Governments and law enforcement agencies shall adopt and implement rules and regulations on the use of force and firearms against persons by law enforcement officials. In developing such rules and regulations, Governments and law enforcement agencies shall keep the ethical issues associated with the use of force and firearms constantly under review.

2. Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to persons. For the same purpose, it should also be possible for law enforcement officials to be equipped with self-defensive equipment such as shields, helmets, bullet-proof vests and bullet-proof means of transportation, in order to decrease the need to use weapons of any kind.

3. The development and deployment of non-lethal incapacitating weapons should be carefully evaluated in order to minimize the risk of endangering uninvolved persons, and the use of such weapons should be carefully controlled.

4. Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.

5. Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:

(a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;

(b) Minimize damage and injury, and respect and preserve human life;

(c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;

(d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.

6. Where injury or death is caused by the use of force and firearms by law enforcement officials, they shall report the incident promptly to their superiors, in accordance with principle 22.

7. Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law.

8. Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles.

Special provisions

9. Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

10. In the circumstances provided for under principle 9, law enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident.

11. Rules and regulations on the use of firearms by law enforcement officials should include guidelines that:

(a) Specify the circumstances under which law enforcement officials are authorized to carry firearms and prescribe the types of firearms and ammunition permitted;

(b) Ensure that firearms are used only in appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm;

(c) Prohibit the use of those firearms and ammunition that cause unwarranted injury or present an unwarranted risk;

(d) Regulate the control, storage and issuing of firearms, including procedures for ensuring that law enforcement officials are accountable for the firearms and ammunition issued to them;

(e) Provide for warnings to be given, if appropriate, when firearms are to be discharged;

(f) Provide for a system of reporting whenever law enforcement officials use firearms in the performance of their duty.

Policing unlawful assemblies

12. As everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14.

13. In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary.

14. In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary. Law enforcement officials shall not use firearms in such cases, except under the conditions stipulated in principle 9.

Policing persons in custody or detention

15. Law enforcement officials, in their relations with persons in custody or detention, shall not use force, except when strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened.

16. Law enforcement officials, in their relations with persons in custody or detention, shall not use firearms, except in self-defence or in the defence of others against the immediate threat of death or serious injury, or when strictly necessary to prevent the escape of a person in custody or detention presenting the danger referred to in principle 9.

17. The preceding principles are without prejudice to the rights, duties and responsibilities of prison officials, as set out in the Standard Minimum Rules for the Treatment of Prisoners, particularly rules 33, 34 and 54.

Qualifications, training and counselling

18. Governments and law enforcement agencies shall ensure that all law enforcement officials are selected by proper screening procedures, have appropriate moral, psychological and physical qualities for the effective exercise of their functions and receive continuous and thorough professional training. Their continued fitness to perform these functions should be subject to periodic review.

19. Governments and law enforcement agencies shall ensure that all law enforcement officials are provided with training and are tested in accordance with appropriate proficiency standards in the use of force. Those law enforcement officials who are required to carry firearms should be authorized to do so only upon completion of special training in their use.

20. In the training of law enforcement officials, Governments and law enforcement agencies shall give special attention to issues of police ethics and human rights, especially in the investigative process, to alternatives to the use of force and firearms, including the peaceful settlement of conflicts, the understanding of crowd behaviour, and the methods of persuasion, negotiation and mediation, as well as to technical means, with a view to limiting the use of force and firearms. Law enforcement agencies should review their training programmes and operational procedures in the light of particular incidents.

21. Governments and law enforcement agencies shall make stress counselling available to law enforcement officials who are involved in situations where force and firearms are used.

Reporting and review procedures

22. Governments and law enforcement agencies shall establish effective reporting and review procedures for all incidents referred to in principles 6 and 11 (f). For incidents reported pursuant to these principles, Governments and law enforcement agencies shall ensure that an effective review process is available and that independent administrative or prosecutorial authorities are in a position to exercise jurisdiction in appropriate circumstances. In cases of death and serious injury or other grave consequences, a detailed report shall be sent promptly to the competent authorities responsible for administrative review and judicial control.

23. Persons affected by the use of force and firearms or their legal representatives shall have access to an independent process, including a judicial process. In the event of the death of such persons, this provision shall apply to their dependants accordingly.

24. Governments and law enforcement agencies shall ensure that superior officers are held responsible if they know, or should have known, that law enforcement officials under their command are resorting, or have resorted, to the unlawful use of force and firearms, and they did not take all measures in their power to prevent, suppress or report such use.

25. Governments and law enforcement agencies shall ensure that no criminal or disciplinary sanction is imposed on law enforcement officials who, in compliance with the Code of Conduct for Law Enforcement Officials and these basic principles, refuse to carry out an order to use force and firearms, or who report such use by other officials.

26. Obedience to superior orders shall be no defence if law enforcement officials knew that an order to use force and firearms resulting in the death or serious injury of a person was manifestly unlawful and had a reasonable opportunity to refuse to follow it. In any case, responsibility also rests on the superiors who gave the unlawful orders.

3. Basic Principles on the Role of Lawyers

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling the Milan Plan of Action, 138/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and endorsed by the General Assembly in its resolution 40/32 of 29 November 1985,

Recalling also resolution 18 of the Seventh Congress, 139/ in which the Congress recommended that Member States provide for the protection of practising lawyers against undue restrictions and pressures in the exercise of their functions,

Taking note with appreciation of the work accomplished, in pursuance of Seventh Congress resolution 18, by the Committee on Crime Prevention and Control, by the interregional preparatory meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on United Nations norms and guidelines in crime prevention and criminal justice and implementation and priorities for further standard setting, 140/ and by the regional preparatory meetings for the Eighth Congress,

1. Adopts the Basic Principles on the Role of Lawyers contained in the annex to the present resolution;

2. Recommends the Basic Principles for national, regional and interregional action and implementation, taking into account the political, economic, social and cultural circumstances and traditions of each country;

3. Invites Member States to take into account and to respect the Basic Principles within the framework of their national legislation and practice;

4. Also invites Member States to bring the Basic Principles to the attention of lawyers, judges, members of the executive branch of government and the legislature, and the public in general;

5. Further invites Member States to inform the Secretary-General every five years, beginning in 1992, of the progress achieved in the implementation of the Basic Principles, including their dissemination, their incorporation into domestic legislation, practice, procedures and policies, the problems faced in their implementation at the national level and assistance that might be needed from the international community, and requests the Secretary-General to report thereon to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

138/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985 (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

139/ Ibid., sect. E.

140/ A/CONF.144/IPM.5.

6. Appeals to all Governments to promote seminars and training courses at the national and regional levels on the role of lawyers and on respect for equality of conditions of access to the legal profession;

7. Urges the regional commissions, the regional and interregional institutes on crime prevention and criminal justice, the specialized agencies and other entities within the United Nations system, other intergovernmental organizations concerned and non-governmental organizations in consultative status with the Economic and Social Council to become actively involved in the implementation of the Basic Principles and to inform the Secretary-General of the efforts made to disseminate and implement the Basic Principles and the extent of their implementation, and requests the Secretary-General to include this information in his report to the Ninth Congress;

8. Calls upon the Committee on Crime Prevention and Control to consider, as a matter of priority, ways and means of ensuring the effective implementation of this resolution;

9. Requests the Secretary-General:

(a) To take steps, as appropriate, to bring this resolution to the attention of Governments and all the United Nations bodies concerned and to provide for the widest possible dissemination of the Basic Principles;

(b) To include the Basic Principles in the next edition of the United Nations publication entitled Human Rights: A Compilation of International Instruments;

(c) To provide Governments, at their request, with the services of experts and regional and interregional advisers to assist in implementing the Basic Principles and to report to the Ninth Congress on the technical assistance and training actually provided;

(d) To report to the Committee on Crime Prevention and Control, at its twelfth session, on the steps taken to implement the Basic Principles.

ANNEX

Basic Principles on the Role of Lawyers

Whereas in the Charter of the United Nations the peoples of the world affirm, inter alia, their determination to establish conditions under which justice can be maintained, and proclaim as one of their purposes the achievement of international co-operation in promoting and encouraging respect for human rights and fundamental freedoms without distinction as to race, sex, language, or religion,

Whereas the Universal Declaration of Human Rights 141/ enshrines the principles of equality before the law, the presumption of innocence, the right to a fair and public hearing by an independent and impartial tribunal, and all the guarantees necessary for the defence of everyone charged with a penal offence,

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141/ General Assembly resolution 217 A (III).

Whereas the International Covenant on Civil and Political Rights 142/ proclaims, in addition, the right to be tried without undue delay and the right to a fair and public hearing by a competent, independent and impartial tribunal established by law,

Whereas the International Convenant on Economic, Social and Cultural Rights 142/ recalls the obligation of States under the Charter to promote universal respect for, and observance of, human rights and freedoms,

Whereas the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment 143/ provides that a detained person shall be entitled to have the assistance of, and to communicate and consult with, legal counsel,

Whereas the Standard Minimum Rules for the Treatment of Prisoners 144/ recommend, in particular, that legal assistance and confidential communication with counsel should be ensured to untried prisoners,

Whereas the Safeguards guaranteeing protection of those facing the death penalty 144/ reaffirm the right of everyone suspected or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings, in accordance with article 14 of the International Covenant on Civil and Political Rights,

Whereas the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power 145/ recommends measures to be taken at the international and national levels to improve access to justice and fair treatment, restitution, compensation and assistance for victims of crime,

Whereas adequate protection of the human rights and fundamental freedoms to which all persons are entitled, be they economic, social and cultural, or civil and political, requires that all persons have effective access to legal services provided by an independent legal profession,

Whereas professional associations of lawyers have a vital role to play in upholding professional standards and ethics, protecting their members from persecution and improper restrictions and infringements, providing legal services to all in need of them, and co-operating with governmental and other institutions in furthering the ends of justice and public interest,

The Basic Principles on the Role of Lawyers, set forth below, which have been formulated to assist Member States in their task of promoting and ensuring the proper role of lawyers, should be respected and taken into account by Governments

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142/ General Assembly resolution 2200 A (XXI), annex.

143/ General Assembly resolution 43/173, annex.

144/ See Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.88.XIV.1), sect. G.

145/ General Assembly resolution 40/34, annex.

within the framework of their national legislation and practice and should be brought to the attention of lawyers as well as other persons, such as judges, prosecutors, members of the executive and the legislature, and the public in general. These principles shall also apply, as appropriate, to persons who exercise the functions of lawyers without having the formal status of lawyers.

Access to lawyers and legal services

1. All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings.

2. Governments shall ensure that efficient procedures and responsive mechanisms for effective and equal access to lawyers are provided for all persons within their territory and subject to their jurisdiction, without distinction of any kind, such as discrimination based on race, colour, ethnic origin, sex, language, religion, political or other opinion, national or social origin, property, birth, economic or other status.

3. Governments shall ensure the provision of sufficient funding and other resources for legal services to the poor and, as necessary, to other disadvantaged persons. Professional associations of lawyers shall co-operate in the organization and provision of services, facilities and other resources.

4. Governments and professional associations of lawyers shall promote programmes to inform the public about their rights and duties under the law and the important role of lawyers in protecting their fundamental freedoms. Special attention should be given to assisting the poor and other disadvantaged persons so as to enable them to assert their rights and where necessary call upon the assistance of lawyers.

Special safeguards in criminal justice matters

5. Governments shall ensure that all persons are immediately informed by the competent authority of their right to be assisted by a lawyer of their own choice upon arrest or detention or when charged with a criminal offence.

6. Any such persons who do not have a lawyer shall, in all cases in which the interests of justice so require, be entitled to have a lawyer of experience and competence commensurate with the nature of the offence assigned to them in order to provide effective legal assistance, without payment by them if they lack sufficient means to pay for such services.

7. Governments shall further ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention.

8. All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials.

Qualifications and training

9. Governments, professional associations of lawyers and educational institutions shall ensure that lawyers have appropriate education and training and be made aware of the ideals and ethical duties of the lawyer and of human rights and fundamental freedoms recognized by national and international law.

10. Governments, professional associations of lawyers and educational institutions shall ensure that there is no discrimination against a person with respect to entry into or continued practice within the legal profession on the grounds of race, colour, sex, ethnic origin, religion, political or other opinion, national or social origin, property, birth, economic or other status, except that a requirement, that a lawyer must be a national of the country concerned, shall not be considered discriminatory.

11. In countries where there exist groups, communities or regions whose needs for legal services are not met, particularly where such groups have distinct cultures, traditions or languages or have been the victims of past discrimination, Governments, professional associations of lawyers and educational institutions should take special measures to provide opportunities for candidates from these groups to enter the legal profession and should ensure that they receive training appropriate to the needs of their groups.

Duties and responsibilities

12. Lawyers shall at all times maintain the honour and dignity of their profession as essential agents of the administration of justice.

13. The duties of lawyers towards their clients shall include:

(a) Advising clients as to their legal rights and obligations, and as to the working of the legal system in so far as it is relevant to the legal rights and obligations of the clients;

(b) Assisting clients in every appropriate way, and taking legal action to protect their interests;

(c) Assisting clients before courts, tribunals or administrative authorities, where appropriate.

14. Lawyers, in protecting the rights of their clients and in promoting the cause of justice, shall seek to uphold human rights and fundamental freedoms recognized by national and international law and shall at all times act freely and diligently in accordance with the law and recognized standards and ethics of the legal profession.

15. Lawyers shall always loyally respect the interests of their clients.

Guarantees for the functioning of lawyers

16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

17. Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

18. Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.

19. No court or administrative authority before whom the right to counsel is recognized shall refuse to recognize the right of a lawyer to appear before it for his or her client unless that lawyer has been disqualified in accordance with national law and practice and in conformity with these principles.

20. Lawyers shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional appearances before a court, tribunal or other legal or administrative authority.

21. It is the duty of the competent authorities to ensure lawyers access to appropriate information, files and documents in their possession or control in sufficient time to enable lawyers to provide effective legal assistance to their clients. Such access should be provided at the earliest appropriate time.

22. Governments shall recognize and respect that all communications and consultations between lawyers and their clients within their professional relationship are confidential.

Freedom of expression and association

23. Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognized standards and ethics of the legal profession.

Professional associations of lawyers

24. Lawyers shall be entitled to form and join self-governing professional associations to represent their interests, promote their continuing education and training and protect their professional integrity. The executive body of the professional associations shall be elected by its members and shall exercise its functions without external interference.

25. Professional associations of lawyers shall co-operate with Governments to ensure that everyone has effective and equal access to legal services and that lawyers are able, without improper interference, to counsel and assist their clients in accordance with the law and recognized professional standards and ethics.

Disciplinary proceedings

26. Codes of professional conduct for lawyers shall be established by the legal profession through its appropriate organs, or by legislation, in accordance with national law and custom and recognized international standards and norms.

27. Charges or complaints made against lawyers in their professional capacity shall be processed expeditiously and fairly under appropriate procedures. Lawyers shall have the right to a fair hearing, including the right to be assisted by a lawyer of their choice.

28. Disciplinary proceedings against lawyers shall be brought before an impartial disciplinary committee established by the legal profession, before an independent statutory authority, or before a court, and shall be subject to an independent judicial review.

29. All disciplinary proceedings shall be determined in accordance with the code of professional conduct and other recognized standards and ethics of the legal profession and in the light of these principles.

C. Other resolutions adopted by the Congress

3. The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders also adopted the following other resolutions:

1. Prevention of urban crime

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling the Milan Plan of Action, 146/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling the final declaration of the European and North American Conference on Urban Safety and Crime Prevention, held at Montreal, Canada,

Noting with appreciation the inventory of comprehensive crime prevention measures 147/ prepared in co-operation with the Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations, and reviewed at the International Seminar on Crime Prevention, held in Moscow from 26 February to 2 March 1990, and submitted by the Secretary-General to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Taking into account resolution 6 concerning the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which calls upon Member States to implement these guidelines in their comprehensive crime prevention plans and in their national laws, policies and practices,

Noting that all Member States are confronted by the problem of crime, particularly urban crime,

Considering that crime undermines social and economic development,

Convinced that a successful programme to reduce crime cannot be based solely on the police and criminal justice system and that it must be matched by an active prevention policy which includes means to reinforce common values so that personal and community responsibility regarding crime is acknowledged, as well as social and community development and the reduction of opportunities for offending,

Also convinced that the government and other sectors of society should take into account the diverse interests of the communities they serve, including those of their vulnerable and economically disadvantaged groups, in their programmes and policies,

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146/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985 (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

147/ A/CONF.144/9.

Considering that it is at the local level, particularly at the urban and community levels, that any prevention policy must primarily be carried out,

Emphasizing that prevention is the concern of all citizens, the community and all institutions in society, and that in particular:

(a) It is the task of Governments and other sectors of society to facilitate the development of local and national prevention programmes;

(b) Prevention must bring together those with responsibility for planning and development, for the family, health, employment and training, housing, social services, leisure activities, schools, the police and the justice system in order to deal with the conditions that generate crime;

(c) Elected officials at all levels must employ the authority of their office and exercise their responsibilities in combating urban crime;

(d) Voluntary crime prevention initiatives should be supported;

(e) The community must be brought into this effort to encourage greater tolerance, greater social justice, equitable access to all programmes and services and greater respect for the rights of all,

Further emphasizing that political leaders and Governments should promote greater solidarity among members of the community and that public authorities at all levels should support locally conceived or implemented prevention efforts,

Considering that the fear of crime is a problem for all citizens, particularly women, children, elderly persons, persons with disabilities and indigenous people, while noting, however, that, in many instances, this fear is out of proportion to the actual level of criminality,

Mindful that the factors conducive to crime include:

(a) Poverty, unemployment, illiteracy, the lack of decent housing at reasonable cost and unsuitable education and training systems;

(b) The increasing number of citizens who have no prospects of social integration, coupled with a worsening of social inequalities;

(c) Loosening of social and family ties, accompanied by inadequate parental upbringing that is frequently made difficult by living conditions;

(d) The difficult conditions associated with people emigrating to towns or other countries;

(e) The destruction of original cultural identities, together with racism and discrimination, which may lead to disadvantages in the social, health and employment spheres;

(f) Deterioration in the urban environment, including the inadequate servicing of areas with neighbourhood facilities;

(g) The difficulties for individuals in modern society to become properly integrated in their communities, families, work place or schools and to identify with a culture;

(h) Alcohol, drug and other substance abuse, whose spread is also promoted by the factors referred to above;

(i) The spread in organized criminal activities, particularly drug trafficking and the receiving of stolen goods;

(j) The encouragement, in particular by the mass media, of ideas and attitudes which lead to violence, inequality or intolerance,

Considering that solutions to these problems involve responsibilities at all levels (international, national, regional, local and individual),

Convinced of the need for co-operation to develop working practices based on partnership, at local and national levels, enabling all those responsible to analyse the difficulties encountered and formulate coherent and targeted responses,

Convinced also that all concerned professionals, including those involved in the criminal justice system, must be given multidisciplinary training,

1. Recommends that Member States take the necessary steps in the following areas:

(a) The family:

By developing policies to promote healthy and stable families, including:

(i) Economic, social and psychological support for families in need, including single parent families and those in the process of breaking up;

(ii) Education and guidance to parents to improve parenting skills;

(b) Childhood:

By developing a policy in respect of very young children, which would include:

(i) Pre-natal and post-natal care and nutritional assistance for parents and children;

(ii) Suitable arrangements to provide nursery facilities and education for young children;

(c) Youth:

(i) By encouraging the development of civic qualities of young people through their active involvement in community life and appropriate instruction regarding rights and duties;

(ii) By involving young people in the crime-prevention policies pursued, particularly those relating to family life, health, leisure activities, training and employment;

(iii) By encouraging schools to accept their responsibility for motivating and integrating all pupils and giving them a sense of achievement, including appropriate qualifications for successfully making the transition to the world of work;

(iv) By encouraging employers to offer appropriate jobs or training to those who have failed or dropped out of school;

(v) By making a particular effort to encourage closer links between the generations;

(d) Justice:

Taking into account the independence of the judiciary, by developing the awareness of the judicial system to current economic and social realities so as to increase the effectiveness of its decisions;

(e) Violence:

(i) By co-ordinating social, economic and criminal justice strategies to prevent:

a. Violence and the physical, sexual and financial abuse of vulnerable groups, such as women, children, elderly persons, and persons with disabilities;

b. Threats of aggression or violence against groups particularly threatened because of their ethnic, national or racial origin, their religious beliefs or their status as indigenous people;

(ii) By combating attitudes and values such as intolerance and the glorification of violence particularly as portrayed by the media, and those which reinforce inequalities in society;

(iii) By limiting and controlling access to weapons including through international co-operation;

(f) Urban housing and community development:

(i) By encouraging housing agencies to facilitate access to a range of useful services for a satisfactory life and enable tenants to become involved in the planning, administration and provision of these services;

(ii) By incorporating safety considerations in urban planning, community development and housing rehabilitation programmes;

(g) Alcohol, drugs and other substance abuse prevention:

(i) By developing, as a means of combating alcohol, drugs and other substance abuse, coherent community-based prevention and education strategies, together with enforcement measures and arrangements for the care and treatment of addicts;

(ii) By organizing, in schools at all levels, in collaboration with specialized groups in the area, education programmes on drug-related problems and, in particular, support for youth in difficulty;

(h) Police:

(i) By ensuring that the police develop prevention, deterrence and fear reduction initiatives that involve citizens, families and community organizations;

(ii) By encouraging the police to work more closely with citizens and by enhancing their co-operation with other agencies, public or private, in particular those who are responsible at the local level for reducing the sense of insecurity;

(i) Victims:

By taking steps to implement the United Nations Declaration of Basic Principles of Justice for Victims of Crime (Milan, 1985), including:

(i) By seeing to it that citizens and their families are properly received by the police and justice officials, that they are informed of the follow-up action taken on their complaints, and that they are able to benefit from concrete judicial responses and are entitled to compensation including incidences where the perpetrators of a crime cannot be identified;

(ii) By putting into place machinery to aid victims that is accessible to every victim easily, quickly and, whenever possible, free of charge;

(iii) By developing mediation and conciliation mechanisms to prevent conflicts, reduce their effects or prevent their aggravation, while at the same time ensuring that no pressure is placed on the victims;

(iv) By establishing, strengthening and expanding national or international provisions for the compensation of victims in appropriate cases;

(j) Prevention of recidivism:

(i) By focusing particular attention on young offenders and their social resettlement, in particular by facilitating their access to all forms of education and training, social assistance, health, employment and housing;

(ii) By seeking effective criminal law responses through a diversification of sanctions to avoid imprisonment wherever possible;

(iii) By making a particular effort, in the event of imprisonment, to avoid the marginalization of the offender and the rupture of his or her personal or cultural ties, and by making available more extensive health, educational and training, cultural, sporting and leisure facilities in prisons, through co-operative arrangements with local partners;

(iv) By facilitating, through improved access to all the various public services, the resettlement of prisoners upon their release from confinement;

(k) Communications:

By informing citizens of the prevention programmes available both locally and nationally, and of their results;

2. Draws the attention of the Member States to the following measures, which refer more specifically to the national level:

(a) To encourage the efforts undertaken by cities and communities through national policies that ensure regular and timely financing and permit ongoing adjustment while reflecting local needs;

(b) To implement long-term solutions, yet be responsive to immediate needs;

(c) To combat poverty and unemployment;

(d) To incorporate, in national crime prevention policies, programmes aimed specifically at children and the young;

(e) To ensure the co-ordination of prevention efforts among the various public, private and voluntary agencies;

(f) To give consideration to the greater involvement of the private sector in the implementation of programmes to combat criminality;

(g) To develop research and disseminate its results, establishing data banks on effective crime-control techniques and providing technical assistance to all agencies, public or private, involved in crime prevention;

3. Invites Member States to increase their co-operation in the field of crime prevention with the aid of the United Nations Secretariat, regional and interregional institutions and non-governmental organizations, specifically:

(a) By strengthening technical and scientific co-operation between States for the purpose of developing:

(i) Their own crime prevention policies;

(ii) International co-operation, especially with developing countries;

(b) By encouraging exchanges between cities and communities implementing prevention programmes;

4. Invites the Secretary-General to develop the initiating and co-ordination role of the United Nations Secretariat by the following specific means:

(a) By giving priority to the implementation of the actual resolution in the framework of the implementation of the recommendations of the Committee on Crime Prevention and Control regarding the review of the functioning and programme of work of the United Nations in crime prevention and criminal justice;

(b) By encouraging the agencies and offices of the United Nations to take into account the priorities established by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in the establishment of the programmes of the different agencies and offices of the United Nations;

(c) By encouraging and co-ordinating the work of the regional and interregional institutes with a view to organizing more meetings and exchanges and to stepping up research and training;

(d) By devising tools for the monitoring and evaluation of public policies designed to combat crime;

(e) By developing an international data bank that will keep all agencies of the Member States, involved in crime prevention, informed of pilot programmes to combat crime;

(f) By encouraging the holding of the Second International Conference on Safety, Drugs and the Prevention of Urban Crime, which will be held at Paris from 18 to 20 November 1991;

(g) By encouraging the creation of an international foundation for the prevention of crime, which would associate practitioners in charge of the formulation and the implementation of national and local policies on crime prevention;

5. Requests the Secretary-General to promote the objectives of the present resolution, specifically by ensuring its widest possible dissemination, and to report to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on the implementation of the present resolution by Member States.

2. The role of criminal law in the protection of nature and the environment

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recognizing that the environment must be protected per se in its entirety and in its various component parts and their interrelations, as the foundation and basis for life,

Deeply concerned about the increasing damage to the environment caused by detrimental influences,

Fearing an occurrence of environmental disasters brought about by additional disturbances of the ecological system,

Realizing that intensified international efforts are necessary to save the environment and to protect it from further deterioration,

Considering the fact that effective measures to protect the environment can be implemented only if awareness of the problems and willingness to act accordingly are developed,

Recognizing that the United Nations should continue to play a substantial role in promoting protection of the environment, particularly through the United Nations Environment Programme,

Recognizing also that the United Nations Environment Programme is the lead agency in handling environmental matters,

Convinced that in addition to measures provided by administrative law and liability under civil law, measures should also be taken, where appropriate, in the field of criminal law,

1. *Calls upon* Member States:

(a) To recognize the need to modify or enact, where necessary, and to enforce national criminal laws designed to protect nature and the environment, as well as people, threatened by their deterioration;

(b) To promote, under national criminal law, the protection of nature and the environment against the dumping of hazardous wastes or other materials which pose a risk of damaging the environment and against the operation of dangerous technical installations that they consider to involve unacceptable margins of risk;

(c) To implement effectively their national laws, including criminal laws, concerning environmental protection, and, *inter alia*, to ensure the restoration of the environment, wherever harmed to its original state as far as possible;

2. *Requests* Member States:

(a) To take measures to encourage public awareness concerning environmental protection and to stimulate the readiness to act accordingly;

(b) To take measures to ensure that public and private entities which undertake activities that are hazardous to the environment take into account ecological concerns among their economic and financial goals;

(c) To consider becoming parties to the relevant international conventions on environmental protection and the conservation of nature;

(d) To encourage the harmonization of national and regional legislation of countries belonging to the same ecosystem, striving for the highest level of protection of the environment;

(e) To co-operate in the prevention, investigation and prosecution of criminal acts against the environment;

3. Requests the Secretary-General:

(a) To encourage the incorporation, where appropriate, in future international conventions for the protection of the environment, of provisions under which States would be expected to enact sanctions under national criminal law;

(b) To examine the possibilities of further harmonization of the provisions of existing international instruments entailing penal sanctions under national criminal law;

(c) To prepare a report, in co-operation with the United Nations Environment Programme, every five years on developments in the field of environmental criminal law;

(d) To assess the priority to be given to the topic at future United Nations congresses on the prevention of crime and the treatment of offenders.

3. Credentials of representatives to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Having examined the report of the Credentials Committee, 148/

Approves the report of the Credentials Committee.

4. International co-operation and mutual assistance through training programmes and exchange of expertise

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling that in the Milan Plan of Action, 149/ the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders recommended the need for technical co-operation in the field of crime prevention and criminal justice,

Recalling also that the Seventh Congress urged Member States to increase their co-operation through bilateral and multilateral arrangements,

Acknowledging with appreciation the important role fulfilled by the United Nations Crime Prevention and Criminal Justice Branch of the United Nations Secretariat, the United Nations regional and interregional institutes for crime

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148/ A/CONF.144/121.

149/ Seventh United Nations Congress ..., chap. I, sect. A.

prevention and control and the interregional adviser in the training and advisory fields,

Considering the need to strengthen the assistance given to both developing and developed countries,

Bearing in mind also that the United Nations has urged Member States to extend technical and other co-operation to developing countries,

1. Recommends the setting-up of co-operative training programmes;

2. Invites Member States, through their national correspondents or otherwise, to map out, at their discretion, their spheres of expertise in the various areas of crime prevention and criminal justice, and these areas should include, inter alia, the technical, investigative, planning and management fields; the utilization of volunteer services; the law enforcement and correctional fields; crime prevention methods and social crime prevention programmes; combating terrorism and organized crime; and assistance to victims and to offenders;

3. Further recommends that the lists of experts and areas of expertise be updated on a regular basis, for example, by using the United Nations Criminal Justice Information Network bulletin board, in order to enable prompt ongoing consultations with experts on questions arising on a daily basis;

4. Further invites Member States, at their discretion and subject to suitable financial arrangements, to make their training programmes in each of these areas of expertise available to those Member States seeking such training, irrespective of regional affiliation. Such training programmes could include courses, tours, meetings, seminars, demonstration and pilot projects and actual "hands-on" experience with equipment or techniques;

5. Recommends that the United Nations act as the co-ordinating body, matching those Member States, both developed and developing, which may require a specific training programme with those able to provide it, while at the same time ensuring an equitable apportionment of the training burden with a view to enabling training States to receive specialized training as required.

5. Consolidation of the role of national correspondents

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling the conclusions and recommendations of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Further recalling the note by the Secretary-General on the United Nations network of government-appointed national correspondents in the field of crime prevention and control, 150/

150/ E/AC.57/1990/4.

Aware of the crucial role played by the network of national correspondents in the ongoing interflow of information between Member States and the United Nations,

Recognizing that the present system of activating national correspondents with a view to gathering and exchanging information, inter alia, on criminal justice systems and on crime patterns, need to be more effective,

Recognizing the efficacy of information exchange through a computerized network, such as the United Nations Crime and Justice Information Network,

Aware that the Network is still in its developmental stage,

1. Recommends defining the specific tasks expected of national correspondents, including the quantity and quality of the data and information to be transferred to the United Nations according to pre-determined timetables and methods;

2. Recommends that the Member States, in co-ordination with the United Nations, review and annually update the lists of national correspondents;

3. Urges that in fulfilling their functions, national correspondents should pay particular attention to the need regularly to update the United Nations Crime and Justice Information Network;

4. Calls upon all Member States to join and to contribute to the Network on an ongoing basis.

6. Use of automated information exchange to combat crimes against movable cultural property

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling the Milan Plan of Action, 151/ adopted unanimously by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and approved by the General Assembly in its resolution 40/32 of 29 November 1985,

Bearing in mind resolution 1 of the Seventh Congress, 152/ in which Member States were urged, inter alia, to increase their activity at the international level in order to combat organized crime,

Recognizing that the national and international growth of crime related to cultural heritage calls for enhanced international co-operation,

Recognizing the work being accomplished by the International Criminal Police Organization in combating crimes against movable cultural property,

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151/ Seventh United Nations Congress ..., chap. I, sect. A.

152/ Ibid., sect. E.

Noting that, at its sixth session in April 1989, the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation of the United Nations Educational, Scientific and Cultural Organization adopted specific recommendations, in particular a recommendation in which Member States were urged to ensure the widest possible dissemination of the notices of the International Criminal Police Organization of stolen cultural objects not only to police and customs authorities but also to museums and dealers,

Taking into account the 1970 United Nations Educational, Scientific and Cultural Organization Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, in particular, article 5 thereof concerning the need to give appropriate publicity to be given by States parties in regard to the disappearance of any items of cultural property,

Taking into account resolution 3 on the computerization of criminal justice, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 153/ in which a call was made for the enhancement of communication between Member States in the field of computerization of criminal justice,

Noting that the swift international exchange of computerized data concerning stolen or illegally exported movable cultural property is a valuable tool in the prevention of crimes against cultural heritage and the apprehension of offenders,

Considering that certain countries have significant practical experience in the international transmission of computerized data concerning movable cultural property,

Noting the work undertaken by the United Nations Educational, Scientific and Cultural Organization in collecting, publishing and disseminating national legislation concerning the protection of movable cultural property,

Noting with appreciation the proposal of Canada for the creation of an automated information exchange service, easily accessible to Member States, for the purpose of ensuring the dissemination of information on, and transmitting descriptions of, stolen or illegally exported movable cultural property between Member States as well as of information concerning national legislation related to the protection of movable cultural property,

1. Requests the Secretary-General to make arrangements, in co-operation with Member States, intergovernmental and non-governmental and other organizations, for the establishment of national and international computer data bases that would be used by competent authorities for the purposes of preventing and combating crime against cultural heritage, which would be available to Member States and to specialized sectors through appropriate information networks, and which would contain information in relation to:

153/ See sect. A above.

(a) Stolen or illegally exported movable cultural property around the world or such property otherwise acquired without valuable consideration;

(b) National legislation and international instruments related to the protection of cultural heritage;

(c) Combating international traffic in movable cultural property;

2. Urges Member States to co-operate in the establishment of such data bases by providing information for the purposes described in paragraph 1 above and to use those data bases for the purposes of preventing and combating crimes against cultural heritage;

3. Requests the Secretary-General to examine the feasibility of developing a fund to be supported by revenues generated from the use of the data bases for the purpose of facilitating access to those data bases by countries that are in need of assistance;

4. Urges Member States to collaborate with the United Nations Educational, Scientific and Cultural Organization in:

(a) The preparation of national inventories of all major collections, archaeological sites and properties that belong to the cultural heritage;

(b) The elaboration of legislation in the field of the protection of cultural heritage, including its preventive and law enforcement aspects;

(c) The dissemination of information on the ways and means of better protecting movable cultural property;

(d) The promotion of education on ways to stimulate and develop respect for cultural heritage;

5. Requests the Secretary-General to bring the present resolution to the attention of Member States and the relevant bodies of the United Nations system;

6. Also requests the Secretary-General to report to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on the implementation of the present resolution.

7. Corruption in government

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Noting that the problems of corruption in public administration are universal and that, although they have particularly deleterious effects on nations with vulnerable economies, these effects are felt throughout the world,

Convinced that corrupt activities of public officials can destroy the potential effectiveness of all types of governmental programmes, hinder development and victimize individuals and groups,

Recognizing the overall importance of minimizing corruption in the process of social and economic development,

Recognizing also that corruption gives rise to injustice and is incompatible with the principle that justice should be administered with equity and fairness,

Affirming the need for policies to deal with corruption, which should embrace economic and development strategies, general prevention and special administrative, investigative and legal measures,

Concerned about the links of corruption to other forms of economic crime, organized crime and illicit drug trafficking, including money laundering,

Having examined the manual on practical measures against corruption 154/ and having found that the proposed measures could greatly facilitate the relevant efforts of Governments to combat corruption,

Having examined also the report of the Interregional Seminar on Corruption in Government, held at The Hague from 11 to 15 December 1989, 155/ organized jointly by the Development Administration Division of the Department of Technical Co-operation for Development of the Secretariat and the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs of the Secretariat,

Emphasizing the essential role that the United Nations should play in assisting States in eliminating the scourge of corruption,

1. Recommends that Member States devise administrative and regulatory mechanisms for the prevention of corrupt practices on the abuse of power, which should include:

(a) The designation of anti-corruption strategies as high priorities in economic and social development plans, which would incorporate anti-corruption elements as integral parts of the relevant programmes;

(b) Increased public awareness of the right to government services and programmes and the provision of effective channels for the submission of complaints;

(c) The introduction of adequate internal management procedures within government agencies to deal with corruption;

(d) The adoption of measures within government agencies to ensure accountability and effective disciplinary measures for public servants and remedial action;

(e) Where necessary, improved banking and financial regulations and machinery to prevent capital flight of funds acquired through corrupt activities;

154/ A/CONF.144/8.

155/ TCD/SEM.90/2.

2. Invites Member States to review the adequacy of their criminal laws, including procedural legislation, in order to respond to all forms of corruption and actions designed to assist or facilitate corrupt activities, and to provide recourse to sanctions that will ensure adequate deterrence;

3. Urges Member States to adopt procedures and devote adequate resources for the detection, investigation and conviction of corrupt officials and to create legal provisions for the forfeiture of funds and property from corrupt practices;

4. Also urges Member States to widely disseminate the manual on practical measures against corruption to their public administration and criminal justice personnel and to consider implementing, when appropriate, the measures contained therein;

5. Further urges Member States to ensure that appropriate measures are taken against enterprises involved in corruption and to refrain from acts of retaliation whenever such measures are taken by other Member States;

6. Requests the Department of Technical Co-operation for Development of the Secretariat, in co-operation with the Crime Prevention and Criminal Justice Branch of the Secretariat, to provide technical co-operation assistance to requesting Member States in the fields of strategic planning of anti-corruption programmes, law reform, public administration and management, training of public officials and criminal justice personnel, and assistance in the tendering of international aid projects;

7. Requests the Department of Technical Co-operation for Development, in co-operation with the Crime Prevention and Criminal Justice Branch, to provide forums, by organizing regional and interregional seminars, expert group meetings, workshops or other appropriate activities, for the sharing and exchange of information about anti-corruption techniques, laws and research results, the facilitation of visits of experts and advisory services, and the examination and promotion, inter alia, particularly of improvement of institutional arrangements and processes, management improvement of the justice process and data bases, including the use of computers for improved decision-making;

8. Requests the Crime Prevention and Criminal Justice Branch to develop a draft international code of conduct for public officials and submit it to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

9. Requests the Crime Prevention and Criminal Justice Branch to solicit the views of Governments, intergovernmental and non-governmental organizations and professional associations in connection with the measures contained in the manual on practical measures against corruption to be used in developing and further elaborating upon the draft code of conduct for public officials, with a view to enhancing their adoptability;

10. Requests the Committee on Crime Prevention and Control to keep the issue of corruption under constant review and to submit the results of the efforts undertaken in pursuance of the present resolution to the Ninth Congress;

11. Requests the Secretary-General to publish the manual, subject to the availability of extrabudgetary resources, in all the official languages of the United Nations and to make the publication available for wide dissemination in all Member States.

8. Racketeering and illicit trafficking in narcotic drugs and psychotropic substances

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling the principles of the United Nations and the commitment of States to respect the obligations that they have assumed under the Charter of the United Nations,

Bearing in mind the Universal Declaration of Human Rights, 156/ the International Covenant on Civil and Political Rights 157/ and other international instruments concerned with human rights,

Recalling also the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, approved in Vienna in December 1988, 158/

Further recalling the relevant provisions of the Milan Plan of Action, 159/ approved by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and endorsed by the General Assembly in its resolution 40/32 of 29 November 1985, regarding the promotion of international co-operation in the struggle against organized crime and the phenomenon of illicit trafficking in narcotic drugs and psychotropic substances,

Concerned at the alarming threat represented by the growing phenomena of organized crime and of illicit trafficking in narcotic drugs and psychotropic substances, which have taken their place among the most serious crimes facing mankind,

Recognizing that the increase in organized crime and in the illicit trafficking in narcotic drugs and psychotropic substances requires greater international co-operation for the protection of peoples and the victims of this scourge,

Recognizing also that, if they are to be satisfactory, measures to combat organized crime and the illicit traffic in narcotic drugs and psychotropic substances must contribute to the reduction or elimination of those problems,

1. Reaffirms its commitment to respect the existing international treaties and the principles of the United Nations, as contained in the Charter of the United Nations and in the other relevant international instruments;

156/ General Assembly resolution 217 A (III).

157/ See General Assembly resolution 2200 A (XXI), annex.

158/ E/CONF.82/15 and Corr.2.

159/ See Seventh United Nations Congress ..., chap. I, sect. A.

2. Urges States to intensify the measures that they have adopted so as to respond to the growing phenomena of organized crime and of the illicit traffic in narcotic drugs and psychotropic substances;

3. Reaffirms that, at the international level, actions designed to strengthen policies and strategies aimed at the prevention, reduction or elimination of organized crime and the illicit traffic in narcotic drugs and psychotropic substances must be based on absolute respect for the sovereignty and the territorial and political integrity of States and self-determination of peoples;

4. Also reaffirms that, at the individual level, such actions must guarantee the human rights of all persons.

9. Computer-related crimes

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recognizing the necessity of developing ways and means of international co-operation in criminal matters,

Desiring to supplement the work already accomplished in the area of United Nations standards and norms in criminal justice,

Bearing in mind that computer systems are often used to store highly sensitive political, economic, medical, social and personal data, and that they may be used to undertake and control complex functions, often involving situations that may threaten life, human rights and fundamental freedoms,

Aware that the growing utilization of computer technology and world-wide computer and telecommunication networks as an integral part of contemporary international financial and banking operations can also create conditions that greatly facilitate criminal operations within and between countries,

Concerned by the increase in the abuse of computers as a modality of economic crime and by the difficulty of detecting computer-related crimes, especially in view of the rapidity with which they can be committed,

Concerned also by the increase in the unauthorized access to, use or surveillance of, interference with or the commission or other harmful acts in relation to, computer systems, data and programs,

Noting the potential for linkages between organized crime and computer-related abuses, and the fact that computers may often be used by organized crime for purposes such as money laundering or in the management and transfer of illegally acquired assets,

Taking into account the work already accomplished by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in particular, the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, 160/

160/ See Seventh United Nations Congress ..., chap. I, sect. B.

Also taking into account the work of the Organisation for Economic Co-operation and Development, in particular its 1986 report entitled "Computer-related Crime: Analysis of Legal Policy" and the recommendation and report of the Council of Europe on computer-related crime containing guidelines for national legislatures which were adopted by the Committee of Ministers of the Council of Europe on 13 September 1989,

Taking further into account the draft guidelines on the use of computerized personal data files 161/ prepared by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities,

Considering that a number of Member States have been working for some time on computer-related crime issues, including the preparation of research studies and the enactment of new laws,

Recognizing that further work is necessary in order to achieve international consensus on the types of computer-related abuses which should be considered as constituting criminal conduct,

Convinced that, in view of the international character and dimensions of computer-related abuses and crimes, their prevention and control requires a dynamic international response,

1. Affirms that the development of appropriate international action requires a concerted effort by all Member States;

2. Calls upon Member States, in view of the work already done in the field of computer-related crimes, to intensify their efforts to more effectively combat computer abuses that deserve the application of criminal sanctions at the national level, including the consideration, if necessary, of the following measures:

(a) Modernization of national criminal laws and procedures, including measures to:

(i) Ensure that existing offences and laws concerning investigative powers and admissibility of evidence in judicial proceedings adequately apply and, if necessary, make appropriate changes;

(ii) In the absence of laws that adequately apply, create offences and investigative and evidentiary procedures, where necessary, to deal with this novel and sophisticated form of criminal activity;

(iii) Provide for the forfeiture or restitution of illegally acquired assets resulting from the commission of computer-related crimes;

(b) Improvement of computer security and prevention measures, taking into account the problems related to the protection of privacy, the respect for human rights and fundamental freedoms and any regulatory mechanisms pertaining to computer usage;

161/ E/CN.4/Sub.2/1988/22.

(c) Adoption of measures to sensitize the public, the judiciary and law enforcement agencies to the problem and the importance of preventing computer-related crimes;

(d) Adoption of adequate training measures for judges, officials and agencies responsible for the prevention, investigation, prosecution and adjudication of economic and computer-related crimes;

(e) Elaboration, in collaboration with interested organizations, of rules of ethics in the use of computers and the teaching of these rules as part of the curriculum and training in informatics;

(f) Adoption of policies for the victims of computer-related crimes which are consistent with the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 162/ including the restitution of illegally obtained assets, and measures to encourage victims to report such crimes to the appropriate authorities;

3. Urges Member States to increase their activities at the international level in order to combat computer-related crimes, including, as appropriate, becoming parties to treaties on extradition and mutual assistance in criminal matters which can accommodate the particular problems pertaining to computer-related crimes;

4. Advises Member States to ensure that their extradition and mutual assistance legislation in criminal matters adequately applies to new forms of criminality, such as computer-related crimes and, if necessary, to take specific steps with a view towards achieving this goal;

5. Recommends that the Committee on Crime Prevention and Control should:

(a) Promote international efforts in the development and dissemination of a comprehensive framework of guidelines and standards that would assist Member States in dealing with computer-related crimes at the national, regional and international levels;

(b) Initiate and develop further research and analysis in order to find new ways in which Member States may deal with the problems related to computer-related crimes in the future;

(c) Consider computer-related crimes when reviewing the implementation of United Nations model treaties dealing with extradition and mutual assistance in criminal matters;

6. Also recommends that the above-mentioned issues be considered by an ad hoc meeting of experts to be convened by the Secretary-General, subject to the availability of extrabudgetary resources, in collaboration with the relevant United Nations organs and bodies, for the purpose of suggesting appropriate proposals to the Committee on Crime Prevention and Control;

162/ General Assembly resolution 40/34, annex.

7. Requests the Secretary-General to provide the necessary services to the Committee on Crime Prevention and Control and the ad hoc meeting of experts so that they may carry out their activities;

8. Invites Member States and interested intergovernmental and non-governmental organizations to become involved in the organization and work of the ad hoc meeting of experts;

9. Invites Member States and intergovernmental and non-governmental organizations to provide logistical and financial support for the preparation of a technical publication by the Committee on Crime Prevention and Control and the ad hoc meeting of experts concerning the prevention and prosecution of computer-related crimes which may be issued by the United Nations;

10. Requests the Secretary-General to consider the publication of a technical publication on the prevention and prosecution of computer-related crimes the provision for which should be included in the 1992-1993 programme budget of the United Nations;

11. Requests the Committee on Crime Prevention and Control, preparing the provisional agenda for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to consider including the issue of computer-related crimes as one of the items on the agenda.

10. Development of United Nations criminal justice statistical surveys

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Bearing in mind resolution 2 of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on the development of crime and and justice statistics 163/ and resolution 9 of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders on the development of crime and criminal justice information and statistical systems, 164/ both of which stressed the important role of the United Nations in criminal justice statistical surveys for informed decision-making in the administration of criminal justice nationally and cross-nationally,

Recalling Economic and Social Council resolution 1990/18 of 24 May 1990 on United Nations surveys of criminal justice, in which the Council requested the Secretary-General to convene a meeting, during the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to consider a revision of the questionnaire on United Nations surveys of crime trends, operation of criminal justice systems and crime prevention strategies,

Taking into account the report prepared by the Secretariat on the Third United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies, 165/ in which hope was expressed that the Eighth Congress would provide guidance for a refinement of the analysis of the Third United Nations Survey data,

Noting that the Third United Nations Survey contained, in addition to crime trends, a range of other criminal justice statistics which are important in informing and strengthening all aspects of criminal justice,

Convinced of the value of United Nations criminal justice statistics surveys in stimulating Member States to develop their systems of criminal justice information, in providing institutions and experts with criminal justice statistics and hypotheses for special research, inter alia, for improving the effectiveness of programmes to reduce crime, and in providing Member States with an overview and an opportunity to study the interrelationship between various parts of the criminal justice system,

Also convinced that the striking of a proper balance between the scope of the survey and the needs and the capabilities of Member States is crucial for future United Nations crime and criminal justice statistics surveys,

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163/ Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Caracas, 25 August-5 September 1980: report prepared by the Secretariat (United Nations publication, Sales No. E.81.IV.4), chap. I, sect. B.

164/ Seventh United Nations Congress ..., chap. I, sect. E.

165/ A/CONF.144/6.

Taking into account that different data collection strategies are required to obtain information with respect to crime prevention,

Also taking into account that responding to the Third United Nations Survey and similar future United Nations crime and criminal justice statistics surveys, involves financial and technical resources for all Member States,

Recognizing the need to make future United Nations crime and criminal justice statistics surveys as simple and as useful as possible,

Recognizing also that the ongoing work regarding computerization of criminal justice by Member States and the United Nations will enhance the potential of Member States to respond to future United Nations crime and criminal justice statistics surveys through the development of comprehensive, accurate and up-to-date criminal justice data bases,

Taking into account the importance of the active involvement of Member States in the design and development of future United Nations crime and criminal justice statistics surveys to ensure that their needs are accurately represented,

Recalling the recommendations on development and analysis of criminal justice statistical data contained in the Manual for the Development of Criminal Justice Statistics, 166/

Noting the developmental work and methodology of the annual international survey of police-based crime statistics of the International Criminal Police Organization,

Noting also the recent important progress achieved in the field of international statistical comparisons through the use of standardized crime surveys,

1. Invites Member States to become actively involved in the design and development of future United Nations crime and criminal justice statistics surveys;

2. Requests the Secretary-General, in consultation with the United Nations regional and interregional institutes and subject to the availability of extrabudgetary resources, to appoint an ad hoc group of experts which, in co-operation with the appropriate United Nations organs and bodies, such as the Statistical Office of the United Nations Secretariat, the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs of the Secretariat, the United Nations Development Programme and the Department of Technical Co-operation of the United Nations Secretariat, advise the Secretary-General with respect to the design, development, implementation and analysis of future United Nations crime and criminal justice statistics surveys;

3. Requests that, in approaching the development of future United Nations crime and criminal justice statistics surveys, the ad hoc group of experts make recommendations to the Committee on Crime Prevention and Control concerning:

166/ United Nations, Studies in Methods, Series F, No. 43 (ST/ESA/STAT/SER.F/43).

(a) The means of actively involving Member States in the design and development of future United Nations crime and criminal justice statistics surveys;

(b) The manner in which the needs of Member States could be met through the utilization of valid and reliable statistical surveys;

(c) Developing the ability of Member States, in particular of developing countries, to supply the required data for future crime and criminal justice statistics surveys conducted by the United Nations;

(d) Improving the comparability and reliability of crime and criminal justice statistics information;

(e) In the light of the foregoing findings, the development of appropriate plans for the design and execution of future United Nations crime and criminal justice statistics surveys;

4. Invites the United Nations regional and interregional institutes on the prevention of crime and the treatment of offenders to assist the Secretary-General in the analysis of the results of the future United Nations crime and criminal justice statistics surveys, for example through the preparation of country criminal justice statistical profiles, as initially developed in the regional reports submitted by the institutes to the Seventh and Eighth United Nations Congresses on the Prevention of Crime and the Treatment of Offenders, which would be submitted for possible inclusion in the United Nations Criminal Justice Information Network;

5. Requests the Committee on Crime Prevention and Control to keep these issues under review with the aim of placing them on the agenda of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

11. Support for the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Reaffirming the crucial role in regard to crime prevention and criminal justice played by the United Nations and, in particular, by the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs and by the regional institutes for the prevention of crime and the treatment of offenders,

Considering the important role that the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders has been undertaking over the past fifteen years in response to the needs expressed by the Latin American and Caribbean countries with regard to crime prevention, criminal justice and human rights,

Bearing in mind the need to co-ordinate efforts and promote international co-operation in this area in order to strengthen the Institute's programmes and intensify and broaden its scope of action at the regional, subregional and national levels, particularly in respect of the Caribbean countries, which have so far not received sufficient attention from the Institute,

Taking into account the important support for the Institute extended by the United Nations Development Programme, as well as by other international agencies and developed donor countries, and the necessity of strengthening the participation and contributions coming from both them and countries covered by the mandate of the Institute,

1. Expresses its gratitude to the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders for the valuable work that it has performed during its fifteen years of operation and for its contribution and support to the countries of the region in their efforts to attain more equitable social and economic development in a climate of peace, freedom, democracy and respect for human dignity, and recommends that greater efforts should be made in order for it to include the countries of the Caribbean in its field of action;

2. Requests the United Nations Secretariat to support and promote technical and financial co-operation between developed and developing countries with regard to crime prevention, criminal justice and human rights, so as to intensify the programmes and activities of the regional institutes for the prevention of crime and the treatment of offenders, particularly those serving the developing countries;

3. Appeals to the Latin American and Caribbean Governments to include in their national development plans and programmes of bilateral and multilateral co-operation adequate resources for the implementation of programmes and activities for crime prevention and criminal justice and to make, to the extent possible, a technical and financial contribution towards sustaining and expanding the programmes of the Institute;

4. Urges Governments of developed countries outside the region, their agencies for co-operation, the United Nations Development Programme, the Department of Technical Assistance for Development of the United Nations Secretariat and other agencies and funds of international bodies to offer greater technical and financial support to the countries of Latin America and the Caribbean, through the Institute, as the United Nations regional institute for the prevention of crime and the treatment of offenders, in its efforts to develop joint programmes and activities to strengthen the efficacy and efficiency of systems for criminal justice and crime prevention.

12. Support for the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling resolution 4 of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 167/ which requested the Secretary-General to establish, as a matter of highest priority, in collaboration with the Organization of African Unity and with the participation of the Economic Commission for Africa, an African regional institute for the prevention of crime and the treatment of offenders,

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167/ Seventh United Nations Congress ..., chap. I, sect. B.

Recalling also Economic and Social Council resolution 1989/59 of 24 May 1989, on the African Institute for the Prevention of Crime and the Treatment of Offenders, in which the Council expressed its appreciation to the Secretary-General for steps taken to establish the Institute; requested the Secretary-General to continue making every effort to ensure adequate support for the Institute, including the issuing of special postage stamps on the occasion of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and the placing of the revenue earned at the disposal of the Institute; and invited the international community, including governmental and non-governmental organizations, to respond positively to the need for assistance and support which would enable the Institute to fulfil its mandate effectively,

Bearing in mind resolution 2 of the African Regional Preparatory Meeting for the Eighth United Nations Congress on the African Institute for the Prevention of Crime and the Treatment of Offenders, 168/ which considered it essential for the Institute to become fully operational so as to respond promptly and efficiently to the needs and concerns of African States, to meet their advisory training and research requirements in the field of crime prevention and criminal justice and to contribute to regional and international efforts in the field,

Also bearing in mind Economic and Social Council resolution 1990/19 of 24 May 1990, on technical co-operation in the field of crime prevention and criminal justice, which noted with satisfaction the statutory establishment of the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders, reaffirmed the vital role the Institute is called upon to play in assisting the African region in the formulation and implementation of appropriate crime prevention and criminal justice policies and programmes, and acknowledged the economic constraints on the Member States of the African region to meet their financial obligations to the Institute to enable it to start operations and implement its mandate,

Noting with satisfaction the steps and activities undertaken so far to establish the secretariat of the Institute and commence the actualization of its operations,

Also noting with satisfaction that the Statute of the Institute guarantees that the staffing, operations and activities of the Institute shall be representative of the various subregional and linguistic areas and interests of the African region,

Expressing appreciation to the Secretary-General, the United Nations Development Programme, the Economic Commission for Africa, other United Nations agencies and bodies, the Organization of African Unity and the Government of the Republic of Uganda for their role in the commencement of the operations of the Institute,

Aware that the Member States of the African region are committed to the viability of the Institute for the provision in the region of advisory, training, research and information services in crime prevention and control,

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168/ See A/CONF.144/RPM.5 and Corr.1 and 2.

Convinced that the viability of the new Institute and the fulfilment of its mandate in the field of crime prevention and criminal justice depends not only on the Member States of the African region but also on concrete support and assistance from the international community,

1. Urges those Member States of the region which have not yet acceded to the statute of the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders to do so and thereby broaden its support base in the region;

2. Appeals to those Member States of the African region which have acceded to the statute of the Institute to meet their financial obligations to the Institute and thereby provide the required sound basis for its functioning;

3. Invites the international community, including scientific and non-governmental organizations, to come to the aid of the Institute with funding and technical assistance directly or through the United Nations Social Defence Trust Fund by providing:

(a) Donations of technical data-processing equipment;

(b) Secondment of technical and expert personnel to the Institute for specified periods;

(c) Funding of specific continent-wide, subregional or country-based substantive activities in the 1990-1993 proposed work programme of the Institute.

13. Measures against drug addiction

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Concerned at the world-wide scope of the drug-addiction phenomenon, which is affecting all States differently,

Convinced that the success of the international struggle against drugs involves a balanced and resolute policy aimed at reducing drug production, trafficking and demand, at promoting prevention, treatment and the social resettlement of drug addicts, and at combating the laundering of drug money,

Recalling the 1987 Comprehensive Multidisciplinary Outline, 169/ the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, dated 20 December 1988, 170/ the global plan of action adopted on 23 February 1990 by the General Assembly at its seventeenth special session, 171/

169/ See Report of the International Conference on Drug Abuse and Illicit Trafficking, Vienna, 17-26 June 1987 (United Nations publication, Sales No. E.87.I.18), chap. I, sect. B.

170/ E/CONF.82/15 and Corr.2.

171/ General Assembly resolution S-17/2, annex.

and the Declaration of the World Ministerial Summit to Reduce the Demand for Drugs and to Combat the Cocaine Threat, held in London from 9 to 11 April 1990, 172-173/

Bearing in mind that co-ordination among all United Nations agencies dealing with drugs is essential for the achievement of the aforementioned goals,

Emphasizing that the most effective prevention lies in strengthening an attitude of drug rejection in all strata of the population,

Reaffirming the illicit nature of drug possession, trafficking and, as the case may be, consumption, while also reaffirming that the ultimate aim of all international co-operation in combating drugs must be the physical and moral liberation of individuals suffering the effects of drug addiction,

Bearing in mind, however, that the addict is most often a victim of emotional and physical disorders or experiences social difficulties and/or that he needs social and therapeutic assistance in order to ensure his liberation from the grip of drugs,

1. Calls upon States to strengthen their national policies to combat drug addiction and to co-operate among themselves in the implementation of these policies;

2. Believes that these policies should be based on the following 10 principles, having regard for the provisions of article 2 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 20 December 1988:

(a) To arouse, by means of information campaigns, an awareness in the entire public through a concerted policy to prevent drug addiction and, specifically, to secure the participation in this policy of local elected officials, associations, communities and families;

(b) To make the school and institutions of education and training places of drug-abuse prevention by generating the necessary awareness on the part of school administrators, teachers and the students themselves;

(c) To make available to children and young persons opportunities for a variety of activities, particularly during their leisure time, and to increase the number of social workers capable of dealing with street children;

(d) To undertake consciousness-raising activities and drug-prevention measures at the work-place;

(e) To develop, in addition to possible penal responses, capabilities for assisting drug addicts in the medical, educational and social areas so as to promote their rehabilitation and prevent any repetition of behaviour involving drug addiction;

172-173/ A/45/262, annex.

(f) To introduce or develop measures that can serve as alternatives to punishment in the case of those addicts who are capable of undergoing treatment, and to provide the judiciary with the option of imposing non-custodial sentences;

(g) To develop the ways in which society accepts and takes charge of drug addicts and, in particular, to facilitate their access to detoxification programmes;

(h) To pursue measures aimed at reuniting former drug addicts with their families and providing social and vocational rehabilitation;

(i) To implement health, social and pedagogical policies designed to check the spread of the human immunodeficiency (HIV) virus among drug addicts, while rejecting any measure whose effect would be to discriminate against them;

(j) To provide adequate training for persons who, because of their professional activities, are in contact or may come into contact with drug addicts;

3. Calls upon Member States to develop and strengthen international co-operation in this area within the framework of the United Nations, among Member States, and between Member States and other international organizations and agencies with a view to achieving the objectives envisaged in paragraph 2 above.

14. Social aspects of crime prevention and criminal justice in the context of development

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Realizing that the demand for development has never been more urgent than in the present decade and will be even more crucial in the next century, in particular in developing countries, 174/

Having examined many aspects of crime prevention and criminal justice in the context of development,

Bearing in mind the Milan Plan of Action, 175/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, 176/

Taking note of resolution 1 on international co-operation for crime prevention and criminal justice in the context of development and the recommendations on international co-operation for crime prevention and criminal justice in the context of development annexed thereto, adopted by the Eighth Congress, 177/

174/ World population will reach approximately 8.2 billion by the year 2025 of which 80 per cent will be living in areas where development is desperately needed.

175/ Seventh United Nations Congress ..., chap. I, sect. A.

176/ Ibid., sect. B.

177/ See sect. A above.

Bearing in mind that the crime rate world wide is, inter alia, related to the improvement of social conditions and bearing in mind also the need to address those conditions, particularly in developing countries,

Noting with concern that economic adjustment programmes have not always led to positive results in relation to crime prevention and criminal justice, thus affecting the crime rate,

1. Confirms its strong commitment to achieving a global consensus in promoting international economic co-operation, in order to revitalize economic growth and promote development, which would strive to ensure the basic rights of all human beings to a life free from hunger, poverty, illiteracy, ignorance, disease and fear of war and crime and to enable mankind to live in a healthy environment;

2. Reaffirms that the protection of poor, neglected and vulnerable groups should be one of the essential objectives of the economic revitalization and development in the 1990s and beyond;

3. Appeals to Member States to develop their economic policies with, inter alia, the aim of reducing crime by taking the appropriate measures to combat corruption, drug trafficking and any form of exploitation;

4. Considers that the social aspects of development are an important factor in the achievement of the objectives of the strategy for crime prevention and criminal justice in the context of development and should be given higher priority within the United Nations system;

5. Calls upon Member States to support the fourth United Nations development decade and to adjust their national programmes according to their own needs, bearing in mind all social aspects, particularly favouring the lowest income groups within their societies, in such a way as not to endanger the achievement of the objectives of crime prevention and the treatment of offenders;

6. Urges all Governments, in particular those of developed countries, international finance-institutions, trade banks and the international community, bearing in mind all the preceding considerations, to continue to search for early and durable solutions to the problems of international trade and debt which are especially burdening the developing countries and, in particular, the least developed countries;

7. Supports international action to protect the environment from further deterioration to ensure better living conditions and to intensify measures to further harmonize the provisions of existing international instruments entailing penal sanctions under national criminal law;

8. Requests the Secretary-General to propose measures for the increased use of education in crime prevention and criminal justice, in co-operation with the United Nations Educational, Scientific and Cultural Organization and other international and non-governmental organizations;

9. Further requests the Secretary-General to consider the preparation of a manual on enhancing the role of education in criminal justice policies at all educational levels, in the training of criminal justice staff, taking into account the relevant recommendations by the Economic and Social Council;

10. Invites the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to examine and update these topics in the light of future developments.

15. Organized crime

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling the principles of the United Nations and the commitment of States to respect the obligations that they have assumed under the Charter of the United Nations,

Also recalling, among other instruments, the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, approved in Vienna in 1988, 178/

Further recalling the relevant provisions of the Milan Plan of Action, 179/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and endorsed by the General Assembly in its resolution 40/32 of 29 November 1985, regarding the promotion of international co-operation in the struggle against organized crime,

Concerned at the alarming threat and acknowledged gravity of the offences committed by organized crime, especially terrorism, drug trafficking, trafficking in arms or persons, and offences against ecosystems and cultural property,

Recognizing that, given the transnational nature and characteristics of those offences, among the actions required to combat them it is necessary to establish effective technical and scientific co-operation, including exchanges of information, as recognized by the Committee on Crime Prevention and Control at its tenth session, in the proposal for concerted international action against the kinds of offences specified in the Milan Plan of Action, 180/ and in the report of the Secretary-General 181/ submitted to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Considering that, among other measures, a study should be made of the possibility of establishing a universal and/or regional register of sentences for these offences or of setting up an improved system for exchanging existing information and data, as one of the instruments that might be used for providing the judicial organs of every State with adequate information,

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178/ E/CONF.82/15 and Corr.2.

179/ See Seventh United Nations Congress ..., chap. I, sect. A.

180/ See Official Records of the Economic and Social Council, 1988, Supplement No. 10 (E/1988/20).

181/ A/CONF.144/7.

Invites the Committee on Crime Prevention and Control to study, with the participation of the specialized agencies, the need for, and the possibility and usefulness of, establishing a universal and/or regional register of judicial sentences that would record the sentences imposed for the offences of drug trafficking, trafficking in arms and persons, terrorism, and offences against ecosystems and cultural property when such offences have been committed in a manner involving transnational modalities, or to explore the possibility of setting up an improved system for the exchange of existing information and data.

16. Principles and directions for research on non-custodial sanctions

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling resolution 8 on alternatives to imprisonment, adopted by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Caracas from 25 August to 5 September 1980, 182/

Recalling also resolution 16 on the reduction of the prison population, alternatives to imprisonment, and social integration of offenders, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Milan, Italy, from 26 August to 6 September 1985, 183/ and in particular, its affirmation of the need to intensify the search for credible non-custodial sanctions and its call to United Nations interregional and regional institutes to strengthen their programmes in order to assist Member States in undertaking research on non-custodial sanctions,

Considering the need for the promotion of action-oriented research, as highlighted by resolution 20 on research on youth, crime and juvenile justice, adopted by the Seventh Congress, 183/

Expressing its appreciation for the reports of the Secretary-General on alternatives to imprisonment and the reduction of prison population 184/ and on research on alternatives to imprisonment, 185/

Noting with satisfaction that the draft United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) submitted to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders emphasize the need for research and exchange of information on non-custodial measures,

Responding to Economic and Social Council resolution 1989/69 of 24 May 1989, by which the Council approved the organization of the Research Workshop on Alternatives to Imprisonment,

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182/ See Sixth United Nations Congress ..., chap. I, sect. B.

183/ See Seventh United Nations Congress ..., chap. I, sect. E.

184/ A/CONF.144/12.

185/ A/CONF.144/13.

Considering also the policy and scientific significance of the findings resulting from the studies carried out by the United Nations Interregional Crime and Justice Research Institute, the Helsinki Institute for Crime Prevention and Control (affiliated with the United Nations), the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders, the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders, the Arab Security Studies and Training Centre, the Australian Institute of Criminology, and experts in the preparation of the Research Workshop on Alternatives to Imprisonment,

Noting also with appreciation the results of the Research Workshop on Alternatives to Imprisonment, held at the Eighth Congress on 31 August 1990,

Aware of the importance of research and of the exchange of information on the results of research in facilitating the development of an appropriate response to pressing problems in criminal justice, such as the continuous increase, in many countries, of the prison population and overcrowding,

Aware also that the results of research studies should be used to promote a better understanding by the public at large of the advantage of non-custodial sanctions,

1. Endorses the principles and directions for policy-oriented research on non-custodial sanctions, as contained in the annex to the present resolution;

2. Encourages Member States, governmental and non-governmental associations and the research community to provide policy makers, adjudicators and other practitioners with statistics and research results on the use and effectiveness of non-custodial sanctions in order to facilitate the making of informed decisions;

3. Recommends that the use of research findings on non-custodial sanctions as resource material in conferences and training courses for criminal justice personnel be encouraged;

4. Calls for a systematic exchange of information, experience and research findings on non-custodial sanctions between governmental and non-governmental organizations and between researchers;

5. Invites Member States and the research community to promote research and the utilization of the results of such research in the development of non-custodial sanctions;

6. Encourages United Nations interregional and regional institutes for the prevention of crime and the treatment of offenders to provide technical assistance to Member States in implementing the principles and directions for research on non-custodial sanctions contained in the annex to the present resolution and to promote the co-ordination and conduct of evaluative and comparative research in that field.

ANNEX

Principles and directions for policy-oriented research on non-custodial sanctions

I. ROLE OF RESEARCH IN POLICY DEVELOPMENT AND SENTENCING PRACTICE

1. The systematic collection and exchange of information, together with the results of research and policy analysis, should be recognized as desirable for the evaluation and promotion of non-custodial sanctions.

2. In order for research on non-custodial sanctions to have immediate policy relevance, it should focus on those areas and issues which present obstacles to the realization of the potential of non-custodial sanctions within a specific system, should address problems confronted by decision makers and administrators, ensuring their collaboration in all phases of the research process, and should present its findings in an easily applicable form.

II. ADOPTION AND IMPLEMENTATION OF NON-CUSTODIAL SANCTIONS

3. Research on the appropriate place of specific non-custodial sanctions within the range of sanctions available for the treatment of offenders, including imprisonment and various types of non-custodial sanctions, provides a basis for the informed adoption and implementation of suitable non-custodial sanctions.

4. Research should seek to determine the appropriateness of various non-custodial sanctions in view of criminal policy and socio-economic, political, legal and organizational requirements and resources, and in view of the culturally specific contexts in which the non-custodial sanctions are to be applied.

5. Research on the attitudes of the legislator, police officer, prosecutor, judge, administrator, victim, community and offender is desirable in order to reveal conditions which limit the adoption and implementation of any particular non-custodial sanction and to provide an appropriate basis for action aimed at increasing its acceptance.

6. Research should investigate the possibility and outcome of the incorporation into non-custodial sanctions of various measures, such as community work, compensation/restitution, treatment and/or combinations thereof, and of utilizing traditional and culturally relevant non-custodial sanctions.

III. EVALUATION RESEARCH

7. Evaluation research is necessary for the promotion of practices in criminal policy, legislation and sentencing that are based on the informed appreciation of the prerequisite conditions for and the benefits of non-custodial sanctions.

8. Such research should pay special attention to the criteria and methodologies for measuring the effectiveness of an adopted non-custodial sanction from the perspectives of the various interests and needs involved.

9. Evaluation research could focus, inter alia, on:

Services to offenders while under sanction

(a) The effectiveness of particular non-custodial sanctions for various types of offenders with different characteristics and severity of crimes, and the relative effectiveness of non-custodial sanctions and custodial sanctions on successful completion of the conditions of the sanction, access to different types of services, rates of recidivism and a reduction of the overall economic, human and social costs of the control of crime;

(b) The consequences of a wider application of non-custodial sanctions on the extent of the use of imprisonment and, more generally, on the reach, degree and type of control exercised through the criminal justice system;

(c) The consequences of a wider application of non-custodial sanctions on the processes of decriminalization/criminalization;

(d) The effects of various means of expanding the use of non-custodial sanctions, such as the development of legislation, sentencing guidelines and the sentencing practice of the higher courts.

17. Pre-trial detention

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Reaffirming the right of everyone to life, liberty and security of person, as enshrined in article 3 of the Universal Declaration of Human Rights 186/ and articles 6 and 9 of the International Covenant on Civil and Political Rights, 187/

Emphasizing that no one shall be subjected to arbitrary arrest or detention, in accordance with article 9 of the Declaration and article 9 of the Covenant, and that it shall not be the general rule that persons awaiting trial shall be detained in custody, but that release may be subject to guarantees to appear for trial, as also stipulated in article 9 of the Covenant,

Emphasizing further that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person, and that accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons, in accordance with article 10 of the Covenant,

Recognizing that everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law, as set forth in article 11 of the Declaration and article 14 of the Covenant, and that such persons shall further be entitled, inter alia, to be informed promptly of the charges against them and tried without undue delay, as also laid down in article 14 of the Covenant,

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186/ General Assembly resolution 217 A (III).

187/ General Assembly resolution 2200 A (XXI), annex.

Recalling the provisions on pre-trial detention contained in the United Nations Standard Minimum Rules for the Treatment of Prisoners, 188/ the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), 189/ the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment 190/ and in other universally recognized international instruments,

Considering that it is desirable, for humanitarian, social and economic reasons, to reduce the applications of pre-trial detention to the minimum compatible with the interests of justice,

Seriously concerned about delays in the criminal justice process, the high proportion of pre-trial detainees among the prison population, the ensuing overcrowding of prisons and the deterioration of the living conditions and status of prisoners and detainees in many countries,

Aware that pre-trial detention may cause physical and psychological damage to persons subjected to it,

1. Recommends that Member States use pre-trial detention only if circumstances make it strictly necessary and as a last resort in criminal proceedings;

2. Calls upon the Committee on Crime Prevention and Control to examine the question of pre-trial detention, taking into account, inter alia, the following principles:

(a) Persons suspected of having committed offences and deprived of their liberty should be brought promptly before a judge or other officer authorized by law to exercise judicial functions who should hear them and take a decision concerning pre-trial detention without delay;

(b) Pre-trial detention may be ordered only if there are reasonable grounds to believe that the persons concerned have been involved in the commission of the alleged offences and there is a danger of their absconding or committing further serious offences, or a danger that the course of justice will be seriously interfered with if they are left free;

(c) In considering whether pre-trial detention should be ordered, account should be taken of the circumstances of the individual case, in particular the nature and seriousness of the alleged offence, the strength of the evidence, the penalty likely to be incurred, and the conduct and personal and social circumstances of the person concerned, including his or her community ties;

(d) Pre-trial detention should not be ordered if the deprivation of liberty would be disproportionate in relation to the alleged offence and the expected sentence;

188/ See Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.88.XIV.1), sect. G.29.

189/ General Assembly resolution 40/33, annex.

190/ General Assembly resolution 43/173, annex.

(e) Whenever possible, the use of pre-trial detention should be avoided by imposing alternative measures, such as release on bail or personal recognizance, or also, in the case of juveniles, close supervision, intensive care or placement with a family or in an educational setting or home; reasons should be provided if such alternatives cannot be applied;

(f) If the use of pre-trial detention for juveniles cannot be avoided, they should receive care, protection and all the necessary individual assistance that they may require in view of their age;

(g) Persons for whom pre-trial detention is ordered should be informed of their rights, in particular:

(i) The right to be assisted promptly by legal counsel;

(ii) The right to request legal aid;

(iii) The right to have the validity of the detention determined by way of habeas corpus, amparo or other means, and to be released if the detention is not lawful;

(iv) The right to be visited by and to correspond with members of their families, subject to reasonable conditions and restrictions as specified by law or lawful regulations;

(h) Pre-trial detention should be subject to judicial review at reasonably short intervals and should not be continued beyond that which is required in the light of the above-listed principles;

(i) All proceedings concerning persons in custody should be conducted as expeditiously as possible so as to reduce the period of pre-trial detention to the minimum;

(j) In the determination of the sentence, the period spent in pre-trial detention should either be deducted from the length of the sentence or be considered with a view to reducing the length of the sentence;

3. Also calls upon the Committee on Crime Prevention and Control to encourage the United Nations regional and interregional institutes for the prevention of crime and the treatment of offenders to strengthen their programmes so as to assist countries in:

(a) Improving the actual conditions of pre-trial detention, in accordance with United Nations standards;

(b) Undertaking research on pre-trial detention and on ways and means of reducing its use and length;

(c) Developing effective non-custodial measures as alternatives to the use of pre-trial detention;

4. Further calls upon the Committee on Crime Prevention and Control to submit to the Ninth United Nations Congress on the Prevention of Crime and the

Treatment of Offenders proposals for further action in the field of pre-trial detention;

5. Requests the Secretary-General to assist the Committee in its task;

6. Invites the Ninth Congress and its preparatory meetings to further consider these issues.

18. Infection with human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) in prison

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recognizing the seriousness and urgency of problems relating to the human immunodeficiency virus (HIV) and the acquired immunodeficiency syndrome (AIDS) in prisons world wide,

Stressing the need to address these problems at the national, regional and international levels,

Aware of the fact that the phenomenon of HIV/AIDS in prison raises difficult questions in respect of the protection of prisoners, prison staff and the general community,

Aware also of the fact that the management of prisoners who are HIV-infected and those with AIDS has created a new set of problems for the prison authorities,

1. Acknowledges with appreciation the report on HIV/AIDS in prison, prepared by the World Health Organization in collaboration with the Crime Prevention and Criminal Justice Branch of the United Nations Secretariat, and the activities already undertaken by the United Nations and the World Health Organization in this field;

2. Recommends that Member States consider the preliminary findings and conclusions in the report and take steps towards the development of a policy on AIDS prevention and control in prisons based on the World Health Organization Global AIDS Strategy, as a part of their national AIDS prevention and control strategy;

3. Requests the Secretary-General, in collaboration with regional institutes for crime prevention and control and with the World Health Organization:

(a) To assist prison administrations, at the request of the Member States concerned, in the development of national AIDS prevention and control programmes for the prison population, and to promote international exchanges of information in this area;

(b) To encourage, as an integral part of the increased emphasis on prison education programmes, international co-operation in the elaboration and exchange of education materials designed to prevent further spread of HIV infection in prison;

(c) To undertake the elaboration of guidelines for the institutional and clinical management of HIV-infected prisoners and those with AIDS.

19. Management of criminal justice and development of sentencing policies

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling that the Milan Plan of Action, 191/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, recommended that continued attention should be given to the improvement of criminal justice systems so as to enhance their responsiveness to changing conditions and requirements in society,

Taking into account the fact that the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, 192/ adopted by the Seventh Congress, emphasized that crime prevention and criminal justice should not be treated as isolated problems to be tackled by simplistic, fragmentary methods, but rather as complex and wide-ranging activities requiring systematic strategies and differentiated approaches,

Aware that the Seventh Congress, in its resolution 8 on criminal justice systems, 193/ recommended that Member States should develop and implement adequate training programmes for criminal justice personnel and requested the Secretary-General to develop guidelines for the establishment of training programmes in all parts of the system for criminal justice personnel,

Mindful that the Seventh Congress, in its resolution 9 on the development of crime and criminal justice information and statistical systems, 193/ requested the Secretary-General to initiate work on the use of information systems in the administration of criminal justice and invited interested Member States to provide for proper measures to enhance the transfer of information within the agencies of the criminal justice system,

Taking into account Economic and Social Council resolution 1986/10, section XI, of 21 May 1986, in which, inter alia, the Council requested the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to consider questions concerning alternatives to imprisonment,

Convinced that criminal justice management is a matter of concern for Member States for a number of reasons, including the following:

(a) Only if the criminal justice system is well managed can rational changes be made to improve the situation;

191/ See Seventh United Nations Congress ..., chap. I, sect. A.

192/ Ibid., sect. B.

193/ Ibid., sect. E.

(b) Inadequate management of the criminal justice system can result in certain practices, such as long delays before trial, that may create injustices for persons whose cases are being processed by the system;

(c) Satisfactory relations between different agencies of the criminal justice system (police, prison administration, youth services, etc.) can contribute to effective allocation of resources,

Emphasizing that the Standard Minimum Rules for the Treatment of Prisoners establishes a basis for considering issues relating to the management of imprisonment,

Stressing that criminal law and the criminal justice process should be seen as instruments of last resort in dealing with wrongdoing in society,

Taking cognizance of the fact that in most countries, imprisonment is the sanction that is the main focus of criminal legislation, even though it may not be imposed in many criminal cases,

Emphasizing that Member States should develop explicit sentencing policies that would have the effect of reducing levels of imprisonment world wide, particularly in respect of relatively trivial types of crime,

Recognizing that one of the goals of the criminal justice system as a whole is to reduce crime, and that the purpose of sentencing is to contribute to that goal by responding in a just and measured fashion to wrongdoing in society, and to seek to achieve the reintegration of the offender into society and to reduce the risk of recidivism,

Recognizing also that a sentencing policy that accomplishes the aforesaid goal will contribute to the well-being of society by providing for sanctions that preserve the authority of the law and promote respect for it,

Recognizing further that sentencing is but one stage of the criminal justice process and that decisions to imprison a suspect or offender may be influenced by decisions taken at earlier stages,

Adopts the following recommendations for further action at the national, regional and international levels:

A. Application of criminal law

1. Recommends that each Member State should consider taking the following action:

(a) Developing strategies to ensure that action taken by the criminal justice system and its intrusion into the lives of members of society is proportionate to the seriousness of the crime and the extent of danger to the public;

(b) Providing powers and developing procedures which enable police, prosecutors and other officials to resolve disputes in appropriate cases without recourse to the full legal process, for example by cautioning, mediation and reparation;

B. Ensuring fair treatment

2. Recommends further that Member States should promote action to:

(a) Minimize the time taken at the various stages in the criminal justice process so that, subject to proper safeguards the verdict and sentence can follow as soon as possible after the start of proceedings;

(b) Reduce to a minimum the number of persons committed to custody awaiting trial;

(c) Ensure that where imprisonment is available as a sanction for failure to comply with the terms of the non-custodial sanction, it is not applied arbitrarily or automatically, but only where that failure is wilful or culpable and the offender has the opportunity to make representations;

(d) Establish practices or policies to ensure that sentences are not imposed until the court is in possession of the information relevant to its decision, and that such information and any recommendations based on it are made promptly available to the court and to any authority which may be making a report to the court;

3. Also recommends that Member States should promote policies and practices to ensure that sanctions are administered fairly, effectively and consistently, that information about their operation is provided to sentencing judges and that judges are made aware of the nature, impact and cost of the sanctions available to them;

C. Sentencing policy

4. Also recommends that Member States should establish structures and procedures, including effective communication with the judiciary and other relevant criminal justice institutions, to ensure that:

(a) Sentencing principles, explicit or implied, are encouraged to be formulated in order to avoid arbitrary disparities in sentences;

(b) Judges are encouraged to explain the reasons for sentences;

(c) Sentencing practices are evaluated;

5. Further recommends that, in developing the structures and procedures referred to in paragraph 4 above, Member States should take into account the following points:

(a) The responsibility for the imposition of sentences in particular cases should rest solely with an impartial and independent judiciary and should not be subject to influence or interference by Governments or their executive agencies;

(b) Fair and coherent sentencing policies should be established and implemented with the support of the judiciary, the legislature and other interested parties and embodied in legislation or published guidelines as appropriate;

(c) Sentences should be no more onerous than necessary to express society's condemnation of the behaviour involved, concern for the interests of the victim and to ensure the protection of society;

(d) A range of sanctions should be available to enable the sentencing judge to choose the most appropriate one, bearing in mind the following guidelines:

(i) Sentences involving imprisonment should be imposed only if there are reasonable grounds for believing that non-custodial sanctions would be inappropriate;

(ii) The choice between different sanctions should be made in consideration of such factors as the likelihood of the offender being rehabilitated, the need for the offender to understand the harm he has done to his victim, and the costs and benefits to society as a whole;

(e) Imprisonment should be used as a sanction of last resort;

(f) The use of imprisonment for certain categories of offenders, such as pregnant women or mothers with infants or small children, should be restricted and a special effort should be made to avoid the extended use of imprisonment as a sanction for these categories;

D. Management of imprisonment, especially in crisis situations

6. Recommends that, in order to reinforce the application of the Standard Minimum Rules for the Treatment of Prisoners, to respond to the current and increasing crisis of overcrowding and other problems facing many prison administrations throughout the world and to promote accountable management, Member States should consider the following action:

(a) Developing policies and strategies that reduce the use of custody and detention to a minimum. Such policies should be designed and evaluated in their own right, independently of the problem of overcrowding;

(b) Establishing policies and procedures that allow for judicial or other effective external oversight of prison administration policies or practices, especially where there is evidence that the Standard Minimum Rules for the Treatment of Prisoners have not been followed;

(c) Drawing up specific operational standards and agreed indicators for evaluation for areas covered by the Standard Minimum Rules for the Treatment of Prisoners. Such standards should be expressed in quantitative terms where appropriate and should provide criteria against which the administration of prisons can be periodically evaluated;

(d) Making the operational standards referred to above readily accessible to all interested parties so that they can be used to evaluate prison operations;

(e) Supporting efforts by prison administration, as one of the agencies responsible, to begin the process whereby all prisoners can be reintegrated into society, developing policies and procedures to achieve that goal, and making information on those policies publicly available;

(f) Ensuring that a person who has been released from prison shall have the same access to public benefits as any other member of society;

7. Invites Member States to report periodically on their compliance with the Standard Minimum Rules for the Treatment of Prisoners. Such reports should be made public by the United Nations and should be accessible to all interested persons;

E. Management and training

8. Recommends that Member States should consider the following policies:

(a) Designing methods for measuring and projecting trends in criminality on a national and local level and in judicial practices and for evaluating the results of policy decisions, according to their specific circumstances;

(b) Within their legal frameworks, structuring the management of each part of the criminal justice system so that an information base for coherent policies can be developed and ensuring that the impact of decisions in one part of the system is considered in the light of their effects on others;

(c) Evaluating decisions within one part of the criminal justice system in the light of the goals not only of that part of the system but also of the system as a whole;

(d) Acknowledging that staff training in the criminal justice system should aim at creating an understanding of the role of each person and each service in the context of the goals of the system as a whole including awareness of the provisions of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power;

(e) Encouraging staff training on an inter-service basis in order to promote awareness of the interdependence of different parts of the criminal justice system;

(f) Fostering, where practicable, the development of joint training programmes between Member States in order to facilitate the exchange of new ideas and perspectives on the training of criminal justice personnel and on solutions to management problems;

(g) Making efforts and, where possible, obtaining funding for Member States to exchange personnel for training programmes.

20. Assessment for the release of life sentence prisoners

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Calling attention to the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 194/ the Standard Minimum Rules for the Treatment of Prisoners 195/ and other relevant international instruments dealing with the status of prisoners,

Aware of the widely differing systems for the assessment of the suitability of prisoners serving life sentences for release and the difficulty of predicting their future behaviour,

Bearing in mind the need for fair and clear judicial, legal and penal systems which have the respect of both the public and those directly affected by them,

Considering the need to prepare for civil life those prisoners serving life sentences who are being considered for release,

Taking account of the work of the Committee on Crime Prevention and Control on the Custodial and Non-Custodial Treatment of Offenders at its eleventh session 196/ and calling attention to the need to take account of the requirements of due process and to limit the range of discretion exercised by prison management and staff, so as to prevent the arbitrary use of authority,

Also taking into account the need to establish and maintain the central role of prison officers,

1. Requests the Committee on Crime Prevention and Control to examine legal position as to the rights and duties of prisoners serving life sentences and the various systems for reviewing their suitability for conditional release;

2. Requests the Committee to give special consideration to assessment procedures and decision-making in cases of life sentences and to examine the need for life sentences.

194/ General Assembly resolution 39/46, annex.

195/ See Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.88.XIV.1), sect. G.29.

196/ Official Records of the Economic and Social Council, 1990, Supplement No. 10 (E/1990/31).

21. International and interregional co-operation in prison management and community-based sanctions and other matters

A

Custodial and non-custodial treatment of offenders

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Bearing in mind the important role of the United Nations in the field of criminal justice through the medium of the quinquennial United Nations Congresses on the Prevention of Crime and the Treatment of Offenders,

Bearing in mind that the reports of the regional preparatory meetings for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders 197/ encourage the continuous elaboration of strategies for the practical implementation of the United Nations norms and guidelines in crime prevention and criminal justice systems through various forms of international co-operation,

Considering that regional meetings of heads of prison administration for the Asia and Pacific region, Africa, Latin America and the Caribbean and Europe provide an ample substantive basis for the exchange of experiences on management of prisons in the context of the implementation of United Nations and other international standards and norms on the treatment of prisoners,

Expressing appreciation for the logistical, substantive and financial support extended by various intergovernmental and non-governmental organizations, including the International Committee of the Red Cross, the Henry Dunant Institute, the Institute of Human Rights and the International Centre for Sociological, Penal and Penitentiary Research and Studies and extended by the United Nations affiliated institutes,

Noting also with appreciation the close collaborative links established between the United Nations crime prevention and criminal justice programme and its human rights programme and between the United Nations criminal justice and human rights programmes and other interregional and regional criminal justice and human rights activities and programmes,

Recognizing the necessity and relevance of imprisonment as a penal sanction against some offenders in the overriding interests of public safety,

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197/ For the reports of the Regional Preparatory Meetings, see A/CONF.144/RPM.1 and Corr.1, A/CONF.144/RPM.2 and Corr.1, A/CONF.144/RPM.3 and Corr.1 and 2, A/CONF.144/RPM.4 and Corr.1, and A/CONF.144/5 and Corr.1 and 2.

Emphasizing the importance of the Standard Minimum Rules for the Treatment of Prisoners 198/ and other international instruments in relation to the treatment of prisoners and prison management,

Conscious of the heavy demands made by the criminal justice system on the human and material resources of Member States,

Taking account of the high economic and social costs of imprisonment as a penal sanction,

Bearing in mind the effects of imprisonment on the psychological, emotional and social aspects of the personality of the individual offender,

Bearing in mind also the potentially damaging consequences of imprisonment for the family and for the social relationships of the offender,

Taking into account the lower economic and social cost of non-custodial sanctions,

Cognizant of the need to intensify the search for credible non-custodial sanctions and to expand their application,

Reaffirming that crime prevention, criminal justice and the treatment of offenders are important elements in the overall social defence and socio-economic development of States that embody respect for human rights and fundamental freedoms,

Recalling the discussions that took place in the Committee on Crime Prevention and Control at its eleventh session, 199/

Invites Member States:

(a) To consider the extent to which the use of imprisonment might be replaced by non-custodial sanctions consistent with public safety;

(b) To emphasize that non-custodial sanctions constitute sentences in their own right and should not be seen as merely substitutes for sentences of imprisonment;

(c) To create the necessary infrastructure and resources and to foster favourable attitudes on the part of the community at large, especially legislators, judges, prosecutors and administrators to their use;

198/ First United Nations Congress on the Prevention of Crime and the Treatment of Offenders: report prepared by the Secretariat (United Nations publication, Sales No. 1956.IV.4), annex I.A.

199/ See Official Records of the Economic and Social Council, 1990, Supplement No. 10 (E/1990/31), chap. III, paras. 62-71.

(d) To broaden the availability of non-custodial sanctions as judicial sanctions;

(e) To take into consideration, in the framework of non-custodial sanctions, the availability of alternatives to pre-trial custody which could be adopted more extensively;

(f) To avoid, reduce or eliminate overcrowding in prisons by considering the use of a combination of factors: a reduction in the length of prison sentences available; the substitution of non-custodial sanctions or measures; and the reduction of pre-trial detention by facilitating pre-trial release or the use of bail and recognizances;

(g) To limit the use of pre-trial detention to those cases where there are reasonable grounds to believe that the persons concerned have been involved in the commission of the alleged offences and there is a danger of their absconding or committing further serious offences or a danger that the course of justice will be seriously interfered with, if they are left free;

(h) To examine methods of ensuring that the access of persons in pre-trial detention to legal or other advice and assistance is not impeded and the conditions of detention are no more restrictive than is necessary to ensure the secure containment of such persons;

(i) To work towards the more complete implementation of the Standard Minimum Rules for the Treatment of Prisoners; 198/

(j) To acknowledge that penal institutions are an integral part of the society they serve and that, in consequence, staff should be encouraged and enabled to play an active part in community affairs, as should prisoners, so far as is consistent with public safety;

(k) To develop the closest possible links between penal institutions and other national and local statutory and voluntary agencies and their local communities to limit the inherently deleterious effects of social isolation and to foster and maintain a sense of citizenship;

(l) To develop the organizational and social structure of prisons so that they more nearly reflect the arrangements prevailing in society, of which the prisoners remain members and to which they will return based on their individual needs in so far as these are consistent with the requirements of security and the maintenance of a safe and orderly environment;

(m) To consider the scope for establishing a system that achieves a proper balance between the rights and responsibilities of members of society, with special regard to the victims of crime, those of the management and staff of penal institutions and those of the prisoners that takes account of the requirements of due process and need to limit the range of discretion exercised by management and staff so as to prevent the arbitrary use of authority, through appropriate organizational structures and effective management procedures, the provision of effective complaints and grievance procedures, access to the courts, and regulatory and inspectorial arrangements;

(n) To examine ways in which reconciliation between offenders and their victims might be facilitated by the development of programmes designed to provide opportunities for mediation and reparation;

(o) To consider also the need to review the managerial arrangements and working practices and their legal framework so as to reflect the implications of such an approach for the deployment of staff, their roles and responsibilities, and the relationship between prison officers and specialists and between prison officers and prisoners;

(p) To pursue, in view of the above, new managerial arrangements and training programmes to establish and maintain the central role of prison officers, thereby contributing to the enhancement of their status and professional identity;

(q) To establish and maintain a better understanding of the issues relating to penal systems through public education programmes and contact with the media and other interested organizations and institutions, so as to create a more positive image of all staff, whether they work in penal institutions or in the community, with responsibility for the maintenance of public safety and the reintegration of offenders into the community;

(r) To consider how the status and public image of prison officers might be enhanced by the introduction of a new designation that more accurately reflects their expanded role, together with a suitably styled uniform and appropriate conditions of service, pay and pension arrangements;

(s) To establish appropriate training programmes to prepare and enable both management and staff to exercise their responsibilities within a legal and policy framework that determines their authority and accountability at all levels to make decisions and use discretion in relation to the individual treatment and personal development of prisoners, their security, care and control;

(t) To consider using increasingly the provision for the transfer of foreign prisoners to their country of normal residence to serve their sentence.

B

Work, education, leisure and family visits

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Acknowledging the contribution of prison labour to the process of the rehabilitation and the reintegration of inmates into society,

Emphasizing the need for further research, exchange of information and provision of technical assistance through the United Nations human rights and criminal justice programmes,

Considering the universal right to education as a means of fully developing the human personality, as set out in article 26 of the Universal Declaration of Human Rights 200/ and in article 13 of the International Covenant on Economic, Social and Cultural Rights, 201/

Bearing in mind article 16 of the Universal Declaration of Human Rights and article 23 of the International Covenant on Civil and Political Rights, 201/ both of which proclaim, inter alia, that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State,

Recalling rule 37 of the Standard Minimum Rules for the Treatment of Prisoners, 198/ which provides that prisoners shall be allowed under the necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits,

Invites Member States:

(a) To develop education in prisons, including the provision of adequate library services, and the availability of trained teachers and volunteers from the community, with a view to facilitating the resocialization of prisoners;

(b) To permit prisoners to receive frequent and prolonged visits from family and friends in the most favourable conditions possible.

C

Drugs

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Acknowledging that drug-related issues deserve particular attention in view of their impact on the functioning of society and also the need to develop greater knowledge concerning the medical and social treatment of drug users,

Considering that the abuse of drugs is a global problem of great complexity requiring social policies on preventive measures and treatment,

Recognizing its adverse effects on the administration of the criminal justice system,

Invites Member States to consider the extent to which they may wish:

200/ General Assembly resolution 217 A (III).

201/ General Assembly resolution 2200 A (XXI), annex.

(a) To differentiate in the application of the criminal law and in the nature and type of treatment provided to occasional users from those physically and/or psychologically dependent; to the user from the dealers; and to those whose offences are directly related to their drug dependence from those whose offences are not so related;

(b) To give preference to the use of non-custodial measures in relation to the personal use of drugs;

(c) To provide medical, psychological and social treatment programmes for drug-dependent offenders, to be applied in appropriate cases;

(d) To initiate or develop research programmes on the relationship between drug dependence and crime.

D

Health care

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling that in accordance with rule 22(2) of the Standard Minimum Rules for the Treatment of Prisoners 198/ sick prisoners in need of specialist treatment shall be transferred to specialized institutions or to civil hospitals,

Aware of the need to provide resocialization opportunities for mentally disturbed and physically disabled prisoners,

Invites Member States:

(a) To arrange for the treatment of sick prisoners to be conducted in a multidisciplinary context and to employ the services of specialized professional personnel;

(b) To consider the human immunodeficiency virus, the acquired immunodeficiency syndrome, hepatitis and similar transmittable diseases as a growing public health issue concerning not only the wider community but also the prison population and, in consequence, to provide information and encouragement to prisoners and staff to take the necessary measures to avoid the transmission of these diseases and, in the event of infection, to take the necessary measures to ensure their proper treatment, including counselling;

(c) To ensure that there is no discrimination on the grounds of infection.

E

Juveniles

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Bearing in mind the principles and guarantees concerning the penal treatment of juveniles, contained in the International Covenant on Civil and Political Rights, 201/

Recalling in particular article 6 of the Covenant, which provides that a sentence of death shall not be imposed on persons below 18 years of age,

Recalling further article 10 of the Covenant which, inter alia, provides that juvenile prisoners shall be separated from adults and should be accorded treatment appropriate to their age and legal status,

Recalling also the adoption by the General Assembly in its resolution 40/33 of 29 November 1985 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, which Rules had been approved by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Noting with satisfaction the adoption by the General Assembly in its resolution 44/25 of 20 November 1989 of the Convention on the Rights of the Child,

Calls upon Member States to maintain progress towards the treatment of juveniles as a special category in the application of the criminal law and the administration of justice, to avoid imposing a sentence of death on persons below 18 years of age and, as far as possible, to avoid the use of imprisonment for persons below 16 years of age.

F

International co-operation

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Bearing in mind that the exchange of expertise and experience in the administration of prisons can assist Member States in discharging their responsibilities in this area,

Considering the importance of co-ordinating the various initiatives taken at the global level to increase the humanization and effectiveness of penal administration with regard to both sanctions involving deprivation of liberty and to community-based sanctions,

Underlining the importance of international co-operation in studies and research in the field of penal administration and in matters related to staff training, exchange of documentation and information,

Taking into account the results of the meetings organized in Messina and Rome, Italy, from 6 to 12 November 1989, by the International Centre for Sociological, Penal and Penitentiary Research and Studies and the Henry Dunant Institute in co-operation with the Government of Italy and the Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations, and the meeting held in San Jose, Costa Rica, from 14 to 19 May 1990,

1. Invites the Secretary-General to facilitate a meeting of representatives of United Nations regional and interregional institutes on the prevention of crime and the treatment of offenders and other competent bodies of the United Nations and of the interested non-governmental organizations, with the purpose of discussing the following topics:

(a) The present degree of co-ordination and rationalization of the various initiatives in the penal field;

(b) The follow-up and implementation of United Nations initiatives in the penal field;

(c) The question of whether a new or existing mechanism should be given a mandate to promote the consideration of such matters as:

(i) Implementation of the recommendations of the United Nations in the penitentiary field;

(ii) Collection of national legislation on penitentiary matters;

(iii) Preparation of a model for the collection of statistical penitentiary data;

(iv) Introduction of community-based sanctions and reduction of the role of sanctions implying deprivation of liberty;

(v) Preparation of a glossary of terms relating to the prevention of crime and the treatment of offenders in all the official languages of the United Nations;

(vi) International co-operation in the application of new technologies and penitentiary computerization;

(vii) Organization of training programmes at all staff levels;

(viii) Organization of an international meeting of the heads of penitentiary administrations to be held every two years;

(ix) The holding of regular meetings in future;

2. Takes note with appreciation of the offer of the Government of Italy, made during the meeting at Messina, to contribute, in co-operation with the Crime Prevention and Criminal Justice Branch, to carrying out this programme;

3. Calls upon Member States to co-operate in this effort by providing the necessary information;

4. Invites Member States to encourage educational authorities, faculties of law and social sciences and research institutes to develop comparative research, studies and courses on penitentiary problems.

22. International year of the rehabilitation of offenders

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Recommends that the General Assembly proclaim an international year of the rehabilitation of offenders in the belief that this would give rise to a greater concern everywhere for the situation of imprisoned persons and for the condition of the world's prisons and would lead to important initiatives aimed at improving the prison system in all the member countries, in addition to representing a worthy addition to the United Nations minimum rules for the prevention of crime and the treatment of offenders.

23. Activities of the International Committee of the Red Cross with regard to detention

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling that the International Committee of the Red Cross, as a neutral and impartial institution which carries out its humanitarian activities especially in situations of international or other armed conflicts and internal disturbances, endeavours at all times to bring protection and assistance to the military and civilian victims of such events and of their direct consequences,

Stressing that the international community has given it a mandate, in the Geneva Conventions of 1949, their Additional Protocols of 1977 and the Statutes of the International Red Cross and Red Crescent Movement, to protect persons deprived of their freedom on account of the above-mentioned events, in particular, prisoners of war, civilian internees and security detainees,

Considering the principles, particularly of humanity, impartiality, neutrality, independence and universality, on which the work of the International Committee of the Red Cross and of the entire International Red Cross and Red Crescent Movement rests,

Deploring the grave effects, in humanitarian terms, on conditions of detention when there is an armed conflict or internal disturbances and tensions,

Acknowledging that visits carried out by the International Committee of the Red Cross may contribute, inter alia, to the eradication of torture and disappearances, and promote a general improvement in the material and psychological conditions of detainees,

Aware of the fact that the International Committee of the Red Cross by its work can make a complementary and pragmatic contribution to the implementation of rules and standards for the treatment of detainees,

Invites the Secretary-General to establish and maintain regular contacts with the International Committee of the Red Cross, with a view to sharing, whenever possible, its experiences relating to the treatment of detainees within the framework of its specific mandates.

24. Prevention and control of organized crime

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recognizing that the growing threat of organized crime, with its highly destabilizing and corrupting influence on fundamental social, economic and political institutions, represents a challenge demanding accrued and more effective international co-operation,

Recalling that the Milan Plan of Action, 202/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, recommended that it was imperative to launch a major effort to control and eventually eradicate the destructive phenomena of illicit drug traffic and abuse and of organized crime,

Recalling also that the Seventh Congress, in its resolution 1, 203/ recommended that the Committee on Crime Prevention and Control should be requested to develop a comprehensive framework of guidelines and standards that would assist Governments in the development of measures to deal with organized crime at the national, regional and international levels,

Recalling further that the General Assembly, in its resolution 40/32 of 29 November 1985, approved the Milan Plan of Action as a useful and effective means of strengthening international co-operation in the field of crime prevention and criminal justice, and endorsed the other resolutions adopted unanimously by the Seventh Congress,

Noting that the General Assembly, in its resolutions 41/107, 42/59 and 43/99, of 4 December 1986, 30 November 1987 and 8 December 1988, respectively, as well as the Economic and Social Council, in its resolutions 1986/10 and 1987/53 of 21 May 1986 and 28 May 1987, respectively, urged Member States to accord priority, inter alia, to the implementation of the recommendations contained in the Milan Plan of Action,

Recalling the provisions set forth in the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 204/ adopted in 1988,

Recognizing that illicit trafficking in narcotic drugs and psychotropic substances is a criminal activity and that its suppression requires a high priority and concerted action at the national, regional and international levels by all States, including rapid ratification of, and accession to, the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances,

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202/ Seventh United Nations Congress ..., chap. I, sect. A.

203/ Ibid., sect. E.

204/ E/CONF.82/15 and Corr.2.

Noting also that the Economic and Social Council, in its resolution 1989/70 of 24 May 1989, called upon Governments, international organizations and interested non-governmental organizations to co-operate with the Committee on Crime Prevention and Control in giving special attention to promoting international co-operation in combating organized crime,

Noting further that the General Assembly, in its resolution 44/72 of 8 December 1989, reaffirmed the continued validity of the Milan Plan of Action and requested the Eighth Congress, inter alia, to propose viable control measures aimed at eradicating the activities of organized crime,

1. Adopts the Guidelines contained in the annex to the present resolution as valuable recommendations for national and international action against organized crime;

2. Urges Member States to give favourable consideration to their implementation at both national and international levels, as appropriate;

3. Invites Member States, on request, to make available to the Secretary-General the provisions of their legislation relating to money laundering, to tracing, monitoring and forfeiture of the proceeds of crime, the monitoring of large-scale cash transactions and other measures enabling these to be made available to such Member States desiring to enact or further develop legislation in these fields.

ANNEX

Guidelines for the prevention and control of organized crime

A. National measures

Preventive strategies

1. Raising public awareness and mobilizing public support are important elements of any preventive action. Education and promotional programmes and the process of public exposure have been successful in changing community attitudes and in enlisting public support. Measures of this kind can help to counter public revenue fraud and can be further developed and utilized on a systematic basis by targeting areas of special social and economic harm to the community and by enlisting the co-operation of the mass media in playing a positive role.

2. Research into the structure of organized crime and the evaluation of the effectiveness of existing countermeasures should be encouraged, since it can contribute to the establishment of a more informed basis for prevention programmes. For example, research in relation to corruption, its causes, nature and effect, its links to organized crime and anti-corruption measures is a prerequisite to the development of preventive programmes.

3. Possible devices to prevent or minimize the impact of organized crime should be continuously explored. While the whole question of crime prevention is an underdeveloped area in many countries, specific measures in a number of spheres have been effective. Detailed programmes that are designed to place obstacles in the way of a potential offender, reduce opportunities for crime and make its

commission more conspicuous should be encouraged. Fraud control programmes represent a significant and positive step in this direction. Other measures include risk analysis to assess vulnerability to fraud, control strategies in relation to such areas as systems and procedures, management and the supervision of staff, physical security, information and intelligence, computers, investigative strategies and training programmes. The creation of anti-corruption agencies or similar mechanisms should also be pursued. Crime impact studies and the identification of criminogenic factors of new development programmes would provide opportunities for the adoption of remedial and preventive measures at the planning stage.

4. Improvements in the efficiency of law enforcement and criminal justice are important preventive strategies based on more efficient and fair processes that act as a deterrent to crime and strengthen guarantees of human rights. Planning processes designed to integrate and co-ordinate relevant criminal justice agencies that often operate independently of each other, as stressed in the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, 205/ will also serve as a deterrent to crime.

5. Better training to upgrade skills and professional qualifications of law enforcement and judicial personnel should be undertaken to improve effectiveness, consistency and fairness in national criminal justice systems. Regional and joint training programmes should be developed in order to exchange information on successful techniques and new technology.

6. The efforts of drug-producing countries aimed at the eradication of the illicit production and processing of drugs should be recognized and supported. In particular, developed countries should grant adequate technical and financial assistance for the implementation of crop substitution programmes. The latter should also increase their efforts to achieve a radical reduction in illicit drug demand and consumption within their national borders.

Criminal legislation

7. Legislation should be encouraged that defines new offences with respect to money laundering and organized fraud and the offence of opening and operating accounts under a false name. Computer crime is another area that requires consideration. In addition, there is a need for reform in civil, fiscal and regulatory legislation that relates to the control of organized crime. Information on significant innovations that have occurred in recent years should be widely shared through the United Nations, with a view to facilitating the development of a solid basis for the harmonization of criminal law dealing with organized crime.

8. Forfeiture of the proceeds of crime represents one of the most significant recent developments. Measures which States could consider in this context might include the following: provision for the freezing or withholding, and the confiscation or forfeiture, of property used in, or derived from, the commission of an offence; and orders for pecuniary penalties representing a court assessment of the monetary value of the benefit derived by the offender from the commission of

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205/ Seventh United Nations Congress ..., chap. I, sect. B.

the offence. Viable remedies that have been developed in several countries on those matters should be brought, in a systematic way, to the attention of other interested countries, with a view to their more widespread utilization. The final disposition of property forfeited by one country, at the request of another, may be made subject to bilateral arrangements.

Criminal investigation

9. Attention should be focused on new methods of criminal investigation and the techniques developed in various countries of "following the money trail". Important in this context are the following: orders requiring financial institutions to provide all the information necessary to follow the money trail, including details of accounts belonging to a particular person, and orders requesting them to report suspect or unusual cash transactions to the appropriate authorities. Banks and other financial institutions should not resort to the principle of secrecy once there exists a judicial order issued by the competent judicial authority.

10. The interception of telecommunications and the use of electronic surveillance are also a relevant and effective procedure, subject to human rights considerations.

11. Schemes for the protection of witnesses against violence and intimidation are becoming increasingly important in the criminal investigation and trial process and in enforcement efforts against organized crime. These procedures include the provision of ways of shielding the identity of witnesses from the accused and his lawyer, protected accommodation and physical protection, relocation and monetary support.

Law enforcement and criminal justice administration

12. Law enforcement plays a crucial role in programmes against organized crime. It is important to ensure that law enforcement agencies have adequate powers, subject to proper human rights safeguards. Consideration should be given to the necessity of establishing a specialized interdisciplinary agency to deal specifically with organized crime.

13. Major emphasis should also be placed on the application of technical and organizational measures designed to increase the effectiveness of the investigative and sentencing authorities, including prosecutors and the judiciary. Furthermore, courses on professional ethics should be incorporated into the curricula of law enforcement and judicial training institutions. Some of the instruments developed by the United Nations could be used for this purpose, such as the Basic Principles on the Independence of the Judiciary 206/ and the Code of Conduct for Law Enforcement Officials. 207/

206/ Ibid., sect. D.

207/ General Assembly resolution 34/169, annex.

B. International co-operation

14. The transnational dimensions of organized crime require the urgent development of new and effective co-operative arrangements on a more comprehensive basis. The exchange of information between relevant agencies of Member States is also an important activity that needs to be strengthened and developed further.

15. Governments should vigorously support all useful initiatives by countries and international institutions to combat illicit drug-trafficking, and should warn others of the imminent danger represented by it. All countries must be involved in combating organized crime on the basis of shared concern. In this respect, consistent and continuous global efforts, combining the exchange of the necessary data and operational resources, should be encouraged and undertaken.

16. Model legislation for the forfeiture of the proceeds of crime should be developed and implemented.

17. Specific strategies and methods should be developed for erecting stronger barriers between legitimate financial markets and the market in illegally acquired capital.

18. Technical co-operation in its various forms, with expanded advisory services, should be strengthened in order to share common experiences and innovations and to assist countries in need. International, regional and subregional conferences bringing together members of the law enforcement, prosecution and judicial authorities should be encouraged.

19. Modern technological advances should be used in the area of passport and travel controls, and efforts should be encouraged to monitor and identify cars, boats and aircraft used in transnational theft or transfer, or for illicit trans-shipments.

20. Data bases containing law enforcement, financial and offenders' records should be established or expanded with due regard for the protection of privacy.

21. Mutual assistance, the transfer of criminal proceedings and the enforcement of criminal judgements, including confiscation and forfeiture of illegal assets, as well as extradition procedures, should receive priority attention.

22. Comparative research and data collection related to issues of transnational organized crime, its causes, its links to domestic instability and other forms of criminality, as well as its prevention and control, should be supported.

23. The United Nations regional and interregional institutes for crime prevention and control and the intergovernmental and non-governmental organizations concerned should give increased attention to the issue of organized crime.

24. The United Nations Development Programme and other funding agencies of the United Nations system, as well as Member States, should be urged to strengthen their support for national, regional and international programmes addressed to the prevention and control of organized crime.

25. Terrorist criminal activities

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Aware of the grave menace that national and international terrorist criminal activities pose to social and political stability and to the lives of countless human beings,

Concerned by the rapid internationalization of these criminal operations,

Convinced that the trend towards the internationalization of terrorist activities makes imperative an appropriate internationally co-ordinated response of global dimensions,

Recalling that in the Milan Plan of Action 208/ the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders affirmed that priority must be given to combating terrorism in all its forms, including, when appropriate, co-ordinated and concerted action by the international community,

Recalling also that the Seventh Congress, in its resolution 23, 209/ requested that the Committee on Crime Prevention and Control should consider the development of recommendations for international action to strengthen law enforcement measures, including extradition procedures and other arrangements for legal assistance and co-operation, with respect to offences of a terrorist nature,

Noting that the General Assembly, in its resolution 40/32 of 29 November 1985, approved the Milan Plan of Action as a useful and effective means of strengthening international co-operation in the field of crime prevention and criminal justice, and endorsed the other resolutions adopted unanimously by the Seventh Congress,

Noting further that the General Assembly, in its resolutions 41/107, 42/59 and 43/99 of 4 December 1986, 30 November 1987 and 8 December 1988, respectively, as well as the Economic and Social Council, in its resolutions 1986/10 and 1987/53 of 21 May 1986 and 28 May 1987, respectively, urged Member States to accord priority, inter alia, to the implementation of the recommendations contained in the Milan Plan of Action,

Aware that the General Assembly, in its resolution 44/72 of 8 December 1989, reaffirmed the continued validity of the Milan Plan of Action and requested the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, inter alia, to propose viable control measures for combating terrorist criminal activities,

Recalling the concern about, and condemnation of, terrorism expressed by the General Assembly in its resolutions 3034 (XXVII), 31/102, 32/147, 34/145, 36/109, 38/130, 40/61, 42/59 and 44/29 of 18 September 1972, 15 December 1976, 16 December 1977, 17 December 1979, 10 December 1981, 19 December 1983, 9 December 1985, 30 November 1987 and 4 December 1989, respectively,

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208/ Seventh United Nations Congress ..., chap. I, sect. A.

209/ Ibid., sect. E.

Recalling also General Assembly resolution 42/159 of 7 December 1987, in which the Assembly, inter alia, recognized that the effectiveness of the struggle against terrorism could be enhanced by the establishment of a generally agreed definition of international terrorism,

1. Agrees that the text of the following annex represents valuable guidance for appropriate, co-ordinated and concerted action against international terrorism at both the national and the international level;

2. Urges Member States to give favourable consideration to following this guidance at both the national and the international level.

ANNEX

Measures against international terrorism

A. Definition

1. Since the first study 210/ of international terrorism was conducted by the United Nations in 1972, the international community has been unable to arrive at a universally agreed meaning of what is included in the term "international terrorism". Nor has it reached sufficient general agreement on the measures needed to prevent and control the harmful manifestations of acts of terrorist violence.

2. Without prejudice to the discussion of the subject in the General Assembly of the United Nations and until such time as a universally acceptable definition of international terrorism is agreed, it would be useful to work with a view to identifying behaviour that the international community regards as unacceptable and that requires the application of effective preventive and repressive measures that are consistent with the recognized principles of international law.

3. Furthermore, the international community should understand better the underlying causes that bring about such conduct in order to develop measures for its prevention and control.

B. Identification of the problems

4. Existing international norms may not in certain areas be sufficient to control all forms and manifestations of terrorist violence. Among the issues of concern are: State policies and practices that may be considered by other States as constituting a violation of international treaty obligations; the absence of

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210/ Measures to prevent international terrorism which endangers or takes innocent human lives or jeopardizes fundamental freedoms, and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes: Study prepared by the Secretariat in accordance with the decision taken by the Sixth Committee at its 1314th meeting, on 27 September 1972 (A/C.6/418).

specific norms on State responsibility regarding the failure to carry out existing international obligations; the abuse of the privilege of diplomatic immunity and the diplomatic pouch; the absence of norms concerning the responsibility of States for acts not prohibited by international law; the absence of international regulation and control of the traffic and trade in arms; the inadequacy of international mechanisms for the peaceful resolution of conflicts and for the enforcement of internationally protected human rights; the lack of universal acceptance of the principle of aut dedere aut iudicare; and the shortcomings of international co-operation in the effective and uniform prevention and control of all forms and manifestations of terrorist violence.

C. International co-operation for the effective and uniform prevention and control of terrorism

5. Effective measures for international co-operation in the prevention of terrorist violence should be developed at the international, regional and bilateral levels. These include: co-operation between law enforcement agencies, prosecution authorities and the judiciary; increasing integration and co-operation within the various agencies responsible for law enforcement and criminal justice, with due regard to fundamental human rights; inclusion of modalities of inter-State co-operation in penal matters at all levels of enforcement and criminal justice; increasing education and training of law enforcement personnel with regard to crime prevention and modalities of international co-operation in penal matters, including the development of specialized courses on international criminal law and comparative penal law and procedures, as a part of legal education as well as professional and judicial training; and the development of both general educational and public awareness programmes through the mass media in order to enlighten the public on the dangers of terrorist violence.

D. Jurisdiction

6. Greater uniformity in the laws and practices of States concerning criminal jurisdiction should be encouraged, while over-extension of national jurisdiction should be avoided in order to prevent unnecessary legal conflicts between States.

7. Jurisdictional priorities should be established giving territoriality the first priority.

E. Extradition

8. States should endeavour to develop and implement effectively international extradition treaties, be they part of multilateral conventions, regional conventions or bilateral agreements.

9. The political offence exception should not be a bar to extradition for crimes of terrorist violence under existing international conventions, except in cases when the requested State undertakes to submit the case to its competent authorities for the purpose of prosecution or transfers the proceedings to another State to conduct the prosecution.

10. States are encouraged to rely on existing extradition provisions in multilateral treaties whenever there is an absence of bilateral treaties.

11. Member States are encouraged to extend their bilateral extradition relationships using as a basis for negotiations the Model Treaty on Extradition elaborated by the United Nations and adopted by the Eighth Congress on the Prevention of Crime and the Treatment of Offenders. In addition, Member States could also consider elaborating multilateral conventions on extradition to remove gaps and loopholes in existing treaties and current extradition procedures.

12. Voluntary return subject to appropriate judicial guarantees, should be encouraged.

F. Mutual assistance and co-operation

13. The prevention and control of terrorist violence depends on effective mutual co-operation and assistance between States in securing evidence with respect to the prosecution or extradition of the offenders.

14. States are encouraged to lend each other the widest possible mutual assistance and co-operation in penal matters, subject to respect for internationally recognized human rights, and to rely on the provisions of multilateral treaties and specific regional and bilateral agreements. To achieve this end, the model treaty on mutual assistance in criminal matters constitutes a basis for strengthened international co-operation.

G. Non-applicability of defence

15. Defence based on obedience to superior orders, or acts of State, or immunities granted for the commission of the crime should not apply with respect to persons who have violated international conventions prohibiting acts of terrorist violence.

H. Conduct of States

16. Resort to practices of terrorist violence supported, carried out or acquiesced in by States should be more effectively curbed by the international community, and the United Nations should develop mechanisms for the control of such conduct, particularly through the strengthening of United Nations machinery for the preservation of peace and security and the protection of human rights.

17. Measures by the international community to curb terrorism that is supported, carried out or acquiesced in by States should be encouraged.

I. Targets of high vulnerability

18. A study concerning the feasibility of the development of an international convention that would enhance the protection of targets that are particularly vulnerable, the destruction of which would cause great harm to populations or cause

severe damage to society, such as hydroelectricity or nuclear facilities, should be undertaken.

19. The United Nations should assist any country that suffers from terrorism or from the presence of terrorist organizations on its territory to put an end to that phenomenon.

J. Control of weapons, ammunition and explosives

20. States should develop appropriate national legislation for the effective control of weapons, ammunition and explosives and other dangerous materials that find their way into the hands of persons who could use them for the purposes of terrorism.

21. International regulations on the transfer, import, export and storage of such objects should be developed so that customs and border controls can be harmonized to prevent their transnational movement, except for established lawful purposes.

K. Protection of the judiciary and of criminal justice personnel

22. States should adopt measures and policies aimed at the effective protection of the judiciary and of criminal justice personnel, including jurors and lawyers involved in trials of terrorism cases, and should also co-operate between themselves in the implementation of such measures.

L. Protection of victims

23. States should establish appropriate mechanisms for the protection, and introduce relevant legislation as well as allocate sufficient resources for the assistance and relief of victims of terrorism, in accordance with the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. 211/

24. International exchange of experiences concerning the subject referred to in the previous paragraph should be encouraged.

M. Protection of witnesses

25. States should adopt measures and policies aimed at the effective protection of witnesses of terrorist acts.

26. States with experience in the field of witness protection programmes should consider lending assistance to other States contemplating similar programmes.

211/ Seventh United Nations Congress ..., chap. I, sect. C.

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N. Treatment of offenders

27. States should endeavour to diminish existing disparities of sentencing in the field of terrorist offences.

28. Persons charged with, or convicted of, terrorist offences, must be treated without discrimination and in accordance with internationally recognized human rights standards and norms, such as enunciated in the Universal Declaration of Human Rights, 212/ the International Covenant on Civil and Political Rights, 213/ the Slavery Convention, 214/ the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 215/ the Abolition of Forced Labour Convention, 215/ the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 216/ and the Standard Minimum Rules for the Treatment of Prisoners. 217/

O. Role of the mass media

29. States should consider the development of guidelines for the mass media or encourage the establishment of voluntary guidelines to control the following: sensationalizing and justifying terrorist violence; disseminating strategic information on potential targets; and disseminating tactical information while terrorist acts are taking place, thereby possibly endangering the lives of innocent civilians and law enforcement personnel or impeding effective law enforcement measures to prevent or control such acts and to apprehend the offenders. These guidelines are in no way intended to restrict the internationally recognized basic human right of freedom of speech and information or to encourage interference in the domestic affairs of other States.

P. Codification of international criminal law and creation of an international criminal court

30. The work of the International Law Commission on codification of aspects of international criminal law should be encouraged. The Committee on Crime Prevention and Control should have an opportunity to present its views.

212/ General Assembly resolution 217 A (III).

213/ General Assembly resolution 2200 A (XXI), annex.

214/ General Assembly resolution 794 (VIII).

215/ See Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.88.XIV.1), sect. F.

216/ General Assembly resolution 39/46, annex.

217/ Human Rights: A Compilation ..., sect. G.

31. The International Law Commission should be encouraged to continue to explore the possibility of establishing an international criminal court or some other international mechanism to have jurisdiction over persons who have committed offences (including offences connected with terrorism or with illicit trafficking in narcotic drugs or psychotropic substances), in accordance with General Assembly resolution 44/39 of 4 December 1989. Similarly, and in the light of the report that the International Law Commission will submit on this particular subject to the General Assembly at its forty-fifth session, the possibility might be considered of establishing an international criminal court or appropriate mechanism with each and all of the procedural and substantive arrangements that might guarantee both its effective operation and absolute respect for the sovereignty and the territorial and political integrity of States and the self-determination of peoples. States could also explore the possibility of establishing separate international criminal courts of regional or sub-regional jurisdiction in which grave international crimes, and particularly terrorism, could be brought to trial and the incorporation of such courts within the United Nations system.

Q. Enhancing the effectiveness of international co-operation

32. The United Nations, in co-operation with specialized agencies such as the International Civil Aviation Organization, the International Maritime Organization, and the International Atomic Energy Agency, should prepare periodic reports on compliance with existing international conventions, including detailed reporting on incidents and cases (arrest, prosecution, adjudication and sentencing), to be made available for international circulation.

33. States that are signatories to international conventions prohibiting terrorist violence are urged to ratify those conventions at the earliest opportunity and to take effective measures to enforce their provisions.

34. States that are not signatories to international conventions prohibiting terrorist violence are urged to accede to such conventions at the earliest opportunity and to take effective measures to enforce their provisions.

35. States are urged to sign and ratify the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, adopted by the conference of the International Maritime Organization, held at Rome in 1988, and the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, adopted by the International Conference on Air Law, which was convened by the International Civil Aviation Organization at Montreal, from 9 to 24 February 1988.

36. The United Nations should consider developing ways and means of encouraging prevention policies, strategies and action by States to ensure the effective implementation of international conventions, including enhanced co-operation at the law enforcement, prosecution and judicial levels.

37. The central role of the United Nations, and in particular of the Crime Prevention and Criminal Justice Branch, Centre for Social Development and Humanitarian Affairs of the United Nations Office at Vienna, as well as the relevant specialized agencies, should be strengthened in order to fulfil the above-mentioned objectives and other purposes of the Organization, including the preservation of peace, the strengthening of world order and the fight against crime under the rule of law.

26. Guidelines on the Role of Prosecutors

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling the Milan Plan of Action, 218/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and endorsed by the General Assembly in its resolution 40/32 of 29 November 1985,

Recalling also resolution 7 of the Seventh Congress, 219/ in which the Committee on Crime Prevention and Control was called upon to consider the need for guidelines relating to prosecutors,

Taking note with appreciation of the work accomplished, in pursuance of that resolution, by the Committee and the regional preparatory meetings for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

1. Adopts the Guidelines on the Role of Prosecutors contained in the annex to the present resolution;

2. Recommends the Guidelines for national, regional and interregional action and implementation, taking into account the political, economic, social and cultural circumstances and traditions of each country;

3. Invites Member States to take into account and to respect the Guidelines within the framework of their national legislation and practice;

4. Also invites Member States to bring the Guidelines to the attention of prosecutors as well as others, including judges, lawyers, members of the executive branch of government and the legislature, and the public in general;

5. Urges the regional commissions, the regional and interregional institutes on crime prevention and the treatment of offenders, the specialized agencies and other entities within the United Nations system, other intergovernmental organizations concerned and non-governmental organizations in consultative status with the Economic and Social Council to become actively involved in the implementation of the Guidelines;

218/ Seventh United Nations Congress ..., chap. I, sect. A.

219/ Ibid., sect. E.

6. Calls upon the Committee on Crime Prevention and Control to consider, as a matter of priority, the implementation of the present resolution;

7. Requests the Secretary-General to take steps, as appropriate, to ensure the widest possible dissemination of the Guidelines, including their transmission to Governments, intergovernmental and non-governmental organizations and other parties concerned;

8. Also requests the Secretary-General to prepare every five years, beginning in 1993, a report on the implementation of the Guidelines;

9. Further requests the Secretary-General to assist Member States, at their request, in the implementation of the Guidelines and to report regularly thereon to the Committee;

10. Requests that the present resolution be brought to the attention of all the United Nations bodies concerned.

ANNEX

Guidelines on the role of prosecutors

Whereas in the Charter of the United Nations the peoples of the world affirm, inter alia, their determination to establish conditions under which justice can be maintained, and proclaim as one of their purposes the achievement of international co-operation in promoting and encouraging respect for human rights and fundamental freedoms without distinction as to race, sex, language or religion,

Whereas the Universal Declaration of Human Rights 220/ enshrines the principles of equality before the law, the presumption of innocence and the right to a fair and public hearing by an independent and impartial tribunal,

Whereas frequently there still exists a gap between the vision underlying those principles and the actual situation,

Whereas the organization and administration of justice in every country should be inspired by those principles, and efforts undertaken to translate them fully into reality,

Whereas prosecutors play a crucial role in the administration of justice, and rules concerning the performance of their important responsibilities should promote their respect for and compliance with the above-mentioned principles, thus contributing to fair and equitable criminal justice and the effective protection of citizens against crime,

Whereas it is essential to ensure that prosecutors possess the professional qualifications required for the accomplishment of their functions, through improved methods of recruitment and legal and professional training, and through the

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220/ General Assembly resolution 217 A (III).

provision of all necessary means for the proper performance of their role in combating criminality, particularly in its new forms and dimensions,

Whereas the General Assembly, by its resolution 34/169 of 17 December 1979, adopted the Code of Conduct for Law Enforcement Officials, on the recommendation of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Whereas in resolution 16 of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 221/ the Committee on Crime Prevention and Control was called upon to include among its priorities the elaboration of guidelines relating to the independence of judges and the selection, professional training and status of judges and prosecutors,

Whereas the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders adopted the Basic Principles on the Independence of the Judiciary, 222/ subsequently endorsed by the General Assembly in its resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985,

Whereas the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 223/ recommends measures to be taken at the international and national levels to improve access to justice and fair treatment, restitution, compensation and assistance for victims of crime,

Whereas, in resolution 7 of the Seventh Congress, 224/ the Committee was called upon to consider the need for guidelines relating, inter alia, to the selection, professional training and status of prosecutors, their expected tasks and conduct, means to enhance their contribution to the smooth functioning of the criminal justice system and their co-operation with the police, the scope of their discretionary powers, and their role in criminal proceedings, and to report thereon to future United Nations congresses,

The Guidelines set forth below, which have been formulated to assist Member States in their tasks of securing and promoting the effectiveness, impartiality and fairness of prosecutors in criminal proceedings, should be respected and taken into account by Governments within the framework of their national legislation and practice, and should be brought to the attention of prosecutors, as well as other persons, such as judges, lawyers, members of the executive and the legislature and the public in general. The present Guidelines have been formulated principally with public prosecutors in mind, but they apply equally, as appropriate, to prosecutors appointed on an ad hoc basis.

221/ Sixth United Nations Congress ..., chap. I, sect. B.

222/ Seventh United Nations Congress ..., chap. I, sect. D.

223/ General Assembly resolution 40/34, annex.

224/ Ibid., sect. E.

READEX FICHE

Qualifications, selection and training

1. Persons selected as prosecutors shall be individuals of integrity and ability, with appropriate training and qualifications.

2. States shall ensure that:

(a) Selection criteria for prosecutors embody safeguards against appointments based on partiality or prejudice, excluding any discrimination against a person on the grounds of race, colour, sex, language, religion, political or other opinion, national, social or ethnic origin, property, birth, economic or other status, except that it shall not be considered discriminatory to require a candidate for prosecutorial office to be a national of the country concerned;

(b) Prosecutors have appropriate education and training and should be made aware of the ideals and ethical duties of their office, of the constitutional and statutory protections for the rights of the suspect and the victim, and of human rights and fundamental freedoms recognized by national and international law.

Status and conditions of service

3. Prosecutors, as essential agents of the administration of justice, shall at all times maintain the honour and dignity of their profession.

4. States shall ensure that prosecutors are able to perform their professional functions without intimidation, hindrance, harassment, improper interference or unjustified exposure to civil, penal or other liability.

5. Prosecutors and their families shall be physically protected by the authorities when their personal safety is threatened as a result of the discharge of prosecutorial functions.

6. Reasonable conditions of service of prosecutors, adequate remuneration and, where applicable, tenure, pension and age of retirement shall be set out by law or published rules or regulations.

7. Promotion of prosecutors, wherever such a system exists, shall be based on objective factors, in particular professional qualifications, ability, integrity and experience, and decided upon in accordance with fair and impartial procedures.

Freedom of expression and association

8. Prosecutors like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional disadvantage by reason of their lawful action or their membership in a lawful organization. In exercising these rights, prosecutors shall always conduct themselves in accordance with the law and the recognized standards and ethics of their profession.

9. Prosecutors shall be free to form and join professional associations or other organizations to represent their interests, to promote their professional training and to protect their status.

Role in criminal proceedings

10. The office of prosecutors shall be strictly separated from judicial functions.

11. Prosecutors shall perform an active role in criminal proceedings, including institution of prosecution and, where authorized by law or consistent with local practice, in the investigation of crime, supervision over the legality of these investigations, supervision of the execution of court decisions and the exercise of other functions as representatives of the public interest.

12. Prosecutors shall, in accordance with the law, perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system.

13. In the performance of their duties, prosecutors shall:

(a) Carry out their functions impartially and avoid all political, social, religious, racial, cultural, sexual or any other kind of discrimination;

(b) Protect the public interest, act with objectivity, take proper account of the position of the suspect and the victim, and pay attention to all relevant circumstances, irrespective of whether they are to the advantage or disadvantage of the suspect;

(c) Keep matters in their possession confidential, unless the performance of duty or the needs of justice require otherwise;

(d) Consider the views and concerns of victims when their personal interests are affected and ensure that victims are informed of their rights in accordance with the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

14. Prosecutors shall not initiate or continue prosecution, or shall make every effort to stay proceedings, when an impartial investigation shows the charge to be unfounded.

15. Prosecutors shall give due attention to the prosecution of crimes committed by public officials, particularly corruption, abuse of power, grave violations of human rights and other crimes recognized by international law and, where authorized by law or consistent with local practice, the investigation of such offences.

16. When prosecutors come into possession of evidence against suspects that they know or believe on reasonable grounds was obtained through recourse to unlawful methods, which constitute a grave violation of the suspect's human rights, especially involving torture or cruel, inhuman or degrading treatment or punishment, or other abuses of human rights, they shall refuse to use such evidence

against anyone other than those who used such methods, or inform the Court accordingly, and shall take all necessary steps to ensure that those responsible for using such methods are brought to justice.

Discretionary functions

17. In countries where prosecutors are vested with discretionary functions, the law or published rules or regulations shall provide guidelines to enhance fairness and consistency of approach in taking decisions in the prosecution process, including institution or waiver of prosecution.

Alternatives to prosecution

18. In accordance with national law, prosecutors shall give due consideration to waiving prosecution, discontinuing proceedings conditionally or unconditionally, or diverting criminal cases from the formal justice system, with full respect for the rights of the suspect(s) and the victim(s). For this purpose, States should fully explore the possibility of adopting diversion schemes not only to alleviate excessive court loads, but also to avoid the stigmatization of pre-trial detention, indictment and conviction, as well as the possible adverse effects of imprisonment.

19. In countries where prosecutors are vested with discretionary functions as to the decision whether or not to prosecute a juvenile, special considerations shall be given to the nature and gravity of the offence, protection of society and the personality and background of the juvenile. In making that decision, prosecutors shall particularly consider available alternatives to prosecution under the relevant juvenile justice laws and procedures. Prosecutors shall use their best efforts to take prosecutory action against juveniles only to the extent strictly necessary.

Relations with other government agencies or institutions

20. In order to ensure the fairness and effectiveness of prosecution, prosecutors shall strive to co-operate with the police, the courts, the legal profession, public defenders and other government agencies or institutions.

Disciplinary proceedings

21. Disciplinary offences of prosecutors shall be based on law or lawful regulations. Complaints against prosecutors which allege that they acted in a manner clearly out of the range of professional standards shall be processed expeditiously and fairly under appropriate procedures. Prosecutors shall have the right to a fair hearing. The decision shall be subject to independent review.

22. Disciplinary proceedings against prosecutors shall guarantee an objective evaluation and decision. They shall be determined in accordance with the law, the code of professional conduct and other established standards and ethics and in the light of the present Guidelines.

Observance of the Guidelines

23. Prosecutors shall respect the present Guidelines. They shall also, to the best of their capability, prevent and actively oppose any violations thereof.

24. Prosecutors who have reason to believe that a violation of the present Guidelines has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial power.

27. Protection of the human rights of victims of crime and abuse of power

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Concerned that crime and victimization continue to pose serious problems, affecting both individuals and entire groups and often transcending national frontiers,

Emphasizing the need for preventive action and measures for the fair and humane treatment of victims, whose needs have often been ignored,

Recognizing the importance of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 225/ which provides standards and guidelines for redress and assistance to such victims and which needs to be widely disseminated and applied in practice,

Welcoming the efforts made to date to develop appropriate means for the implementation of the Declaration, and to further its application at the national, regional and international levels,

Stressing the need for social solidarity, which requires the establishment of close links between members of society to guarantee social peace and respect for the rights of victims, as well as the need to provide adequate mechanisms and measures through which redress and assistance for victims can be provided nationally, regionally and internationally,

Considering the key role of law enforcement agencies, prosecutors, lawyers and the judiciary in the implementation of the Declaration,

Bearing in mind the relevant provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the General Assembly in resolution 39/46 of 10 December 1984,

Bearing in mind also the work being carried out by the Committee on Crime Prevention and Control,

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225/ General Assembly resolution 40/34, annex.

Recalling the Cairo Declaration on Law Enforcement and the Human Rights of Victims, adopted by the International Symposium held at Cairo from 22 to 25 January 1989,

Recalling also the report prepared by the ad hoc committee of experts at the International Institute of Higher Studies in Criminal Sciences, held at Syracuse, Italy in May 1986, as revised by a colloquium of leading non-governmental organizations active in crime prevention, criminal justice and the treatment of offenders and victims, held at Milan, Italy, in November-December 1987,

Recalling further the recommendation of the Economic and Social Council in its resolution 1990/22 of 24 May 1990 that Member States and the United Nations regional and interregional institutes should take the necessary steps to provide professional and other persons dealing with victims with suitable training in issues concerning victims, taking into account the model training curricula developed for this purpose, 226/

1. Takes note with appreciation of Economic and Social Council resolutions 1989/57 of 24 May 1989 and 1990/22;

2. Recommends that, in the implementation of the said resolution, the Committee on Crime Prevention and Control should take into account the important proposals already made by the community of concerned non-governmental organizations;

3. Calls upon States to take into account the provisions of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power in framing their national legislation;

4. Recommends that Governments should consider the availability of public and social support services for victims of crime and abuse of power and foster culturally appropriate programmes for victim assistance, information and compensation;

5. Requests the Secretary-General to make appropriate provisions to study the feasibility of establishing an international fund, within the framework of the United Nations crime prevention and criminal justice programme, for the compensation of, and assistance to, victims of transnational crimes and for the promotion of international research, data collection and dissemination and the establishment of policy guidelines in this respect;

6. Recommends that States should prepare training programmes based on the principles of the Declaration, aimed at defining and disseminating the rights of victims of crime and abuse of power, which should be part of the curricula of faculties of law, criminological institutes, law enforcement training centres and judicial colleges;

7. Calls upon States to exchange, both at the international and regional levels, information and experiences related to the means used to implement their legal and social provisions concerned with the protection of victims of crime and abuse of power;

226/ See E/AC.57/1990/NGO/3.

8. Recommends that the United Nations and other organizations concerned strengthen their technical co-operation activities in order to help Governments to implement the Declaration and other relevant guidelines and to strengthen international co-operation in this respect;

9. Requests the Secretary-General to distribute widely the Guide for Practitioners on the Basic Principles of Justice for Victims of Crime and Abuse of Power 227/ and the Measures for Implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. 228/

28. Transfer of enforcement of penal sanctions

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recognizing the necessity of improving ways and means of international co-operation in criminal matters,

Desiring to supplement the work already accomplished in the area of United Nations standards and norms in criminal justice,

Recalling previous work already accomplished in this specific area, in particular the Model Agreement on the Transfer of Foreign Prisoners, 229/

1. Invites Member States to take further steps to improve the methods of international co-operation in criminal matters by considering the conclusion of agreements for the transfer of enforcement of penal sanctions;

2. Calls upon the Secretary-General to provide or facilitate the provision of professional advice and technical support at the request of Member States that are interested in concluding such agreements;

3. Also calls upon the Secretary-General to encourage international collaboration in research with a view to the transfer of enforcement of penal sanctions using, in particular, United Nations regional and interregional institutes on the prevention of crime and the treatment of offenders;

4. Requests the Committee on Crime Prevention and Control to consider the question of the transfer of enforcement of penal sanctions and the possibility of the formulation of a model agreement thereon with a view to submitting it to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders for further deliberations.

227/ See A/CONF.144/20, annex.

228/ E/AC.57/1988/NGO/1.

229/ Seventh United Nations Congress ..., chap. I, sect. D.

29. Development of future procedures for evaluating the extent to which Member States implement United Nations norms and guidelines in criminal justice and crime prevention

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling Economic and Social Council resolution 1987/49 of 28 May 1987 and General Assembly resolution 42/59 of 30 November 1987, in which the continuing interest of the United Nations in crime prevention and the humanization of criminal justice was affirmed,

Recalling also Economic and Social Council resolution 1989/63 of 24 May 1989, in which the Council encouraged the continued development of strategies for the practical implementation of such United Nations norms and guidelines and of measures to assist Member States, at their request, in the implementation and evaluation of such norms and guidelines,

Recalling further Economic and Social Council resolution 1990/21 of 24 May 1990, in which the Council, inter alia, called upon Member States to promote studies on measures for the effective implementation of the standards, with emphasis on new developments in that area, and invited them to draw on their best available expertise and to hold ad hoc meetings,

Noting that, pursuant to paragraph 6 of Economic and Social Council resolution 1990/21, the Committee on Crime Prevention and Control is expected, at its twelfth session, to make specific recommendations to the Council for further action required for the effective implementation of existing standards, on the basis of the proposals made by the pre-sessional working group established in accordance with paragraph 6 of Council resolution 1989/63,

Taking into account the need for the preparation of a plan to apply the various standards and to monitor their implementation and for future machinery for new surveys on the implementation of such standards, as recommended in reports of the Secretary-General,

Recognizing the difficulties that Member States may have in implementing such norms and in evaluating their success,

Recognizing also the need to improve the ability of many States to respond to their expanded reporting obligations,

Convinced that with effective evaluation the setting of such norms and guidelines is of greater value,

1. Requests the Secretary-General, subject to the provision of extrabudgetary funds, to convene an ad hoc group of experts, in accordance with the principles of equitable geographical representation and with special consideration to developing countries, charged with the task of submitting concrete proposals to the Committee on Crime Prevention and Control at its twelfth session for:

(a) Promoting the implementation of existing standards;

(b) Consolidating and rationalizing arrangements for the effective evaluation and monitoring of the implementation of United Nations norms and guidelines in the field of criminal justice;

(c) Improving the techniques to evaluate such implementation;

2. Recommends that, in approaching this task, the ad hoc group, in conjunction with United Nations regional and interregional institutes and agencies on the prevention of crime and the treatment of offenders, as well as with the appropriate non-governmental organizations, should bear in mind that:

(a) Statistical surveys can aid in such evaluations;

(b) The growing burden imposed on many States by the expansion of reporting obligations may lead to excessive delays or inadequate reporting and to the need for technical assistance;

(c) Programme evaluation techniques of a more complex nature may well be necessary in order to monitor particular evaluations and that such evaluation techniques might vary between different regions;

(d) Progress can be speeded up by carrying out pilot studies in a small number of countries, and specific recommendations for such pilot studies have already been made in papers before the Eighth Congress on the Prevention of Crime and the Treatment of Offenders, as, for example, in paragraph 110 of the report of the Secretary-General 230/ on the implementation of the Standard Minimum Rules for the Treatment of Prisoners; 231/

3. Recommends that the role of the Committee on Crime Prevention and Control should be supported so as to enable it to function more effectively as the monitoring body for United Nations norms and guidelines in the field of criminal justice and to assist the Economic and Social Council with recommendations;

4. Recommends also that the Committee on Crime Prevention and Control should keep this topic under review and consider placing it on the agenda of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

230/ A/CONF.144/11.

231/ First United Nations Congress on the Prevention of Crime and the Treatment of Offenders: report prepared by the Secretariat (United Nations publication, Sales No. 1956.IV.4), annex I.A.

30. Expression of thanks to the people and Government of Cuba

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Having met in Havana from 27 August to 7 September 1990 at the invitation of the Government of Cuba,

Expresses its profound gratitude to the President of the Councils of State and Ministers of the Republic of Cuba and to the people and Government of Cuba for their warm and generous hospitality and for the excellent facilities provided.

D. Decision adopted by the Congress

4. The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders adopted the following decision:

1. Implementation of the conclusions of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

At its 13th plenary meeting, on 6 September 1990, the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders decided to request the Secretary-General, in carrying forward the conclusions of the Eighth Congress, to give priority attention to specific practical measures to combat international crime and to promote the effective implementation of norms, standards and instruments adopted by the international community, and to the provision, where practicable, of technical co-operation to Member States at their request.

Part two. BACKGROUND TO THE CONGRESS

CHAPTER II

ORIGINS OF AND PREPARATIONS FOR THE CONGRESS

5. The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders was convened in accordance with paragraph (d) of the annex to General Assembly resolution 415 (V) of 1 December 1950, which provided for the convening every five years of an international congress in this field. 232/

6. The Economic and Social Council, in its resolution 1987/49 of 28 May 1987, requested the Secretary-General to take all necessary steps to ensure the successful undertaking of the preparatory activities for the Eighth Congress, as well as the success of the Congress itself, including the convening of the regional preparatory meetings and interregional meetings of experts in 1988 and 1989, and the commissioning of experts and consultants to assist in the preparation of the necessary documentation for the Congress. In addition, the General Assembly, in its resolution 44/72 of 8 December 1989, requested the Secretary-General to ensure that the substantive and organizational work of the Eighth Congress was fully adequate for the successful outcome of the Congress.

7. Regional Preparatory Meetings were held in 1989 at Bangkok from 10 to 14 April, in co-operation with the Economic and Social Commission for Asia and the Pacific (ESCAP) at Helsinki from 24 to 28 April, in co-operation with the Government of Finland and the Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), at San José, Costa Rica, from 8 to 12 May, in co-operation with the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD) and with the support and assistance of the Economic Commission for Latin America and the Caribbean (ECLAC), at Cairo from 27 to 31 May, in co-operation with the Economic and Social Commission of Western Asia, and hosted by the Government of Egypt, and at Addis Ababa from 5 to 9 June, in co-operation with the Economic Commission for Africa (ECA). 233/

8. Five Interregional Preparatory Meetings to discuss in depth the substantive aspects of the topics to be considered by the Congress were convened in 1988 at Vienna from 15 to 19 February, from 14 to 18 March, from 18 to 22 April, from 30 May to 1 June and from 27 June to 1 July. 234/

232/ The first seven Congresses were held at Geneva in 1955, in London in 1960, at Stockholm in 1965, at Kyoto in 1970, at Geneva in 1975, at Caracas in 1980 and in Milan in 1985. The reports of those Congresses were issued as United Nations publications, Sales Nos. E.56.IV.4, E.61.IV.3, E.67.IV.1, E.71.IV.8, E.76.IV.2 and corrigendum, E.81.IV.4 and E.86.IV.1, respectively.

233/ For the reports of the Regional Preparatory Meetings, see A/CONF.144/RPM.1 and Corr.1, A/CONF.144/RPM.2 and Corr.1, A/CONF.144/RPM.3 and Corr.1 and 2, A/CONF.144/RPM.4 and Corr.1, and A/CONF.144/5 and Corr.1 and 2.

234/ For the reports of the Interregional Preparatory Meetings, see A/CONF.144/IPM/1-4 and A/CONF.144/IPM/5 and Corr.1.

Part three. PROCEEDINGS OF THE CONGRESS

CHAPTER III

ATTENDANCE AND ORGANIZATION OF WORK

A. Date and venue of the Congress

9. The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders was held at Havana, from 27 August to 7 September 1990, in conformity with the Economic and Social Council resolution 1989/69 of 24 May 1989.

B. Pre-Congress consultations

10. In conformity with the practice followed at United Nations special conferences and with a decision of the Economic and Social Council, informal pre-Congress consultations were held on 25 and 26 August 1990. Participation in the consultations was open to representatives of all States invited to the Congress. A number of recommendations on the organization of work of the Congress were agreed upon in the course of the consultations (see A/CONF.144/L.1).

C. Attendance

11. The following States were represented at the Congress: Afghanistan, Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bangladesh, Barbados, Belize, Belgium, Benin, Bhutan, Bolivia, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Byelorussian Soviet Socialist Republic, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Democratic People's Republic of Korea, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Finland, France, Gabon, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Guinea, Guinea-Bissau, Guyana, Holy See, Hungary, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Rwanda, Saint Kitts and Nevis, Samoa, Saudi Arabia, Senegal, Sierra Leone, Somalia, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia and Zimbabwe.

12. Palestine was represented by an observer.

13. The following national liberation movement was represented by an observer: African National Congress (ANC).

14. The following United Nations offices and organs, were represented by observers: Office of the Director-General for Development and International Economic Co-operation, Department of Technical Co-operation for Development, United Nations Centre for Human Rights, United Nations Development Programme, University for Peace, Economic Commission for Africa, Economic and Social Commission for Asia and the Pacific, Economic Commission for Latin America and the Caribbean, Economic and Social Commission for Western Asia, Office of the United Nations High Commissioner for Refugees, International Court of Justice, Director-General of the United Nations Office at Vienna, International Narcotics Control Board, Division of Narcotic Drugs, Helsinki Institute for Crime Prevention and Control affiliated with the United Nations, United Nations African Institute for the Prevention of Crime and the Treatment of Offenders, United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, United Nations Interregional Crime and Justice Research Institute and United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders.

15. The following specialized agencies were represented by observers: United Nations Educational, Scientific and Cultural Organization and World Health Organization.

16. The following intergovernmental organizations were represented by observers: Arab Security Studies and Training Centre, Council of Europe, Conseil des ministres de l'interieur arabes, International Criminal Police Organization, Organization of African Unity and Scandinavian Research Council for Criminology.

17. The following non-governmental organizations were represented by observers: Afro-Asian People's Solidarity Organization, Amnesty International, American Association of Jurists, Andean Commission of Jurists, Arab Lawyers Union, Asia Crime Prevention Foundation, Baha'i International Community, Centro Nazionale di Prevenzione e Difesa Sociale, Conférence Permanente Européene de la Probation, Defence for Children International, Foundation for Responsible Computing, Friends World Committee for Consultation (Quakers), Howard League for Penal Reform, International Association against Torture, International Association of Democratic Lawyers, International Association of Judges, International Association of Juvenile and Family Court Magistrates, International Association of Penal Law, International Association of Residential and Community Care, International Bar Association, International Catholic Child Bureau, International Center of Sociological Penal and Penitentiary Research and Studies, International Commission of Jurists, International Committee of the Red Cross, International Council for Adult Education, International Federation of Human Rights, International Federation of Women Lawyers, International Institute of High Studies in Criminal Sciences, International Law Association, International League for Human Rights, International Penal and Penitentiary Foundation, International Prisoners Aid Association, International Society of Social Defence, John Howard Society of Canada, Lawyers Committee for Human Rights, League of Red Cross and Red Crescent Societies, Latin American Social Science Council, National Council for Crime Prevention, Penal Reform International, Prison Fellowship International, Radda Barnen (Swedish Save the Children), The Salvation Army, Victim Support, Women's International Democratic Federation, World Alliance of Reformed Churches, World Federation for Mental Health, World Federation of United Nations Associations and World Society of Victimology.

D. Opening of the Congress

(agenda item 1)

18. The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders was officially opened, on behalf of the Secretary-General of the United Nations, by the Secretary-General of the Eighth Congress, Miss Margaret J. Anstee, Director-General of the United Nations Office at Vienna.

19. The Congress was addressed by His Excellency Fidel Castro, President of the Council of State and Council of Ministers of Cuba, who welcomed the participants and expressed his personal wishes for a successful Congress. He stressed that international co-operation was essential to expand knowledge of the phenomena of crime and their evolution, and to mount effective counter strategies. Cuba was virtually free of many forms of contemporary crime because of the characteristics of Cuban society where there were no great socio-economic differences among the various sectors of the population. Cuba had no organized crime and no widespread violence. In the streets of Cuba, there were neither abandoned children nor homeless people, as could be seen in some wealthy capitals of the world. Cuba approached crime as a phenomenon with deep social roots and placed emphasis on prevention rather than punishment, stressing the role of the masses in crime prevention and the treatment of offenders, using other types of sanctions instead of deprivation of freedom, including the reintegration of offenders into the labour market.

20. Referring to the link between crime and development, he noted that the major factors leading to crime were poverty, hunger, marginalization, lack of education and of opportunities, which characterized underdevelopment. Success in the fight against crime depended on success in the fight against poverty and exploitation. The external debt was the main obstacle to development. Cuba had stated already in 1985 that the debt could not be paid and that a solution had to be found to the agonizing situation created by it. Today, creditors and debtors seemed aware that the debt was not only unpayable but also uncollectable. Protectionism had become worse and the external financial flows for development purposes had been drastically reduced. The effects of the economic crisis on developing countries was to cause a further deterioration in living standards. Some 950 million people lived in dire poverty, and infant mortality was 10 times higher than the average in developed countries. Adult illiteracy stood at 900 million, and millions of children lived in absolute poverty or did not have access to schooling. That situation was a breeding ground for crime.

21. The present international political crisis and the threat of a war, stemming from events in the Gulf region, multiplied the number of negative economic indicators for the great majority of nations. The President emphasized that the fight against crime encompassed the fight for a more just international economic order. An analysis of transnational crime should include the actions of those who totally ignored the rules of international law, such as the principle of non-intervention.

22. Cuba was one of the "cleanest countries in the world as far as drugs were concerned". Illegal drugs were not a disastrous social problem. Offenders were severely punished and even stricter laws were being considered. Cuba's geographical location made it an attractive transshipment point for illegal drugs. However, strict controls and scrutiny had resulted in the detention of several

vessels and aircraft carrying large quantities of illegal narcotics bound for the United States. Several traffickers and dealers had also been apprehended. While the fight against drug-trafficking required world-wide efforts, the main responsibility for the problem lay with the large centres of drug consumption. Juvenile delinquency was also a serious problem. Traffickers preyed on the young to propagate their crimes. Economic, social and racial factors were also responsible for the criminalization of the young. Poor, unemployed youth were the most susceptible, especially in highly developed countries. Although the problem of juvenile delinquency was very difficult to resolve, education, access to jobs, cultural development, together with effective control of criminal organizations, would make it possible to deal with the problem. In Cuba, the crime rate for minors was very low. Society as a whole helped in their protection. There were equal opportunities for all and special attention was being paid to youth. Minors who committed offences were not treated under the regular penal procedures. There were legal provisions for non-custodial sanctions and re-education.

23. Regretting the fact that some countries did not interpret the need for international action in this field in the same manner and subjected it to political considerations, the President concluded by stating that Cuba would co-operate with the United Nations and the world community in the areas of crime prevention and control and the treatment of offenders.

E. Election of the President

(agenda item 2 (a))

24. At its 1st plenary meeting, on 27 August 1990, the Congress elected by acclamation Mr. Juan Escalona Reguera, President of the National Assembly of the People's Power of the Republic of Cuba and Head of the Delegation of Cuba, President of the Congress.

25. Following his election as President of the Congress, Mr. Escalona said that his designation was an honour for his country and a recognition of its contribution to the field. There had been some scattered objections to the holding of the Congress in Cuba, but they had been overcome. Narrow and unfair national sentiments should not prevail over the need for international co-operation and concerted action in the field of crime and justice. There was no room in a better world for the pernicious and destructive forces of criminals. Desired results could be achieved only if all participants were ready to co-operate towards the goals of the Congress, namely the improvement of human life through justice, not allowing the adversaries of law and order to prevail. Quoting José Martí, the Cuban national hero, he said that "a just principle is as deep as a well and more valuable than an army".

F. Opening statements

26. The Director-General for Development and International Economic Co-operation read a statement addressed by the Secretary-General to the Congress. The Secretary-General expressed his sincere thanks to the Government and people of Cuba for generously hosting the Congress. He commended Cuba for demonstrating its

commitment to the wider sharing of the fruits of development so essential for achieving the objective of social progress and better standards of life, called for in the United Nations Charter.

27. In highlighting the importance of the United Nations Congresses on the Prevention of Crime and the Treatment of Offenders, the Secretary-General stated that these Congresses had influenced national policies by facilitating the exchange of information and experience, recommending lines of action, mobilizing public opinion and focusing attention on major issues of concern to Member States and the scientific community. The Eighth Congress was being held at a time of vast changes and great promise. The end of the cold war between the super-Powers had improved the prospect of achieving peace in the world. Peace was a prerequisite for development, and development fortified peace. Both required a solid foundation of justice, and were seriously undermined by inequities, social disorders and escalating crime. From a local problem of limited scope, crime had become a global menace transcending national frontiers as organized crime and other forms of serious criminality continued to increase. The international community had called for comprehensive strategies to deal with the problem and to ensure that no corner of the world served as a sanctuary for the perpetrators of crime, nor the lack of vigilance afford them impunity.

28. The Secretary-General noted that violations of fundamental human rights continued in many parts of the world. Summary executions, disappearances and the systematic practice of torture imposed a heavy burden on the world's conscience. Terrorism was taking its toll and social injustice exacerbated the plight of many who had no hopeful prospects. Vast segments of the population suffering the inequities of increased marginalization, linked to the widening gap between the rich and the poor, were victimized by rampant criminality. In both human and material terms, crime and the response to it exacted a high price and diverted the limited resources needed to meet development goals. New and more effective means of international co-operation to prevent crime, reduce victimization and improve the quality of justice should be devised.

29. In his conclusion, the Secretary-General emphasized that the Congress provided a unique opportunity to examine the problems encountered in key areas, such as terrorism, organized crime and corruption, as well as penal protection of the environment; to assess the measures taken, and to devise a global strategy. As a forum for discussion and the exchange of ideas, as a source of assistance, a catalyst and facilitator, and as a springboard for joint action, the United Nations could help achieve the common objective of crime prevention, mitigating its impact on society.

30. In her opening statement, Miss Margaret J. Anstee, Secretary-General of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders welcomed the participants and expressed her gratitude to the people and Government of Cuba for their generous invitation to host the Congress. She noted that the Congresses had constantly improved the systems of crime prevention and criminal justice. One of their central functions had been that they were the most authentic universal forum for exchanging information and experience in this field. Their gradual transformation from a group of experts into an intergovernmental meeting attested to the growing significance attributed by the international community to their contribution. It was 40 years since the General Assembly passed resolution 415 (V), which transferred to the United Nations the functions formerly exercised by the International Penal and Penitentiary Commission. Dramatic changes

had occurred in the world in those 40 years. Many of them had been to the benefit of mankind, others had not. A shrinking globe had, perversely, provided ample opportunity for the expansion of criminal activity, nationally and internationally. Crime had become one of the world's major social problems, affecting directly both the rate and the effectiveness of development.

31. The United Nations has a key role to play, in four main areas: as a forum for exchange of experience and search for solutions; developing a legal framework for international co-operation; monitoring the phenomenon of crime and the implementation of the internationally agreed instruments; and providing operational support through technical co-operation.

32. The themes of the Crime Congresses had evolved over the years in order to remain relevant to emerging new concerns. This one was no exception. It had before it a large number of measures and instruments of wide interest to all Member States: five model treaties, of which the most important was that on mutual assistance in criminal matters; six other new legal instruments setting out universal standards that would also help harmonize national legislation and make co-operation easier; and a number of practical guidelines on key issues.

33. In underlining the practical relevance of the work of the Congress, the Secretary-General also stressed the need for effective follow-up and implementation afterwards, and for a focused, practical United Nations programme in crime and justice. In this regard this Congress could, and should, prove to be a watershed. If the analysis of the problems discussed, or the solutions proposed were too general, it was very likely that they would have little impact and little value: and that this would be the evaluation put on the programme as a whole. One of the tasks before this Congress was precisely to make specific recommendations to respond to specific problems. Since resources available for the programme from the regular budget of the United Nations are very limited and likely to remain so, much would depend on the extent to which the programme could attract resources from other sources. The decisions and recommendations of the Congress would, therefore, be doubly important. They would affect the way in which those involved in the problems of crime prevention and control saw their task, at the national and international level, and also the way the United Nations programme was perceived. They would also affect the level of resources to be made available, both from the United Nations regular budget and from extrabudgetary sources.

34. The clear question facing the Congress was that of establishing priorities, difficult as that was. The proposed Pledging Day would give some indication of the possibilities of "non-traditional" funding, but to the extent to which a funding gap remained the Conference would have to grapple with the hard choice as to whether to focus resources on implementing existing standards and resolutions or adding to the list of those that are unimplemented.

35. In the ongoing debate on this some had advocated an all-encompassing international convention. Others aimed rather at pursuing practical co-operation on a bilateral, regional or international basis with a more limited subject matter. The idea of a convention certainly had its attractions. However, its preparation and negotiation could be a very lengthy and resource-consuming process, as had been shown by the experience with the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (which, incidentally

had just come into force with the twentieth ratification). Accordingly, the Congress would no doubt wish to give full weight to these considerations in reaching a decision.

36. One clear course of action which would be exploited to the maximum was the better use of those resources that were available, limited as they were, by pooling efforts and rationalizing and streamlining existing arrangements. Good progress had been made in this regard since the United Nations Office at Vienna had assumed its new status as the nucleus for all secretariat activities relating to social policy and social development, as well as drug abuse control.

37. She hoped that any new proposals for the United Nations crime and justice programme would take into account the need to foster the interrelationship between the crime programme and the other programmes dealing with drugs, youth, women and vulnerable groups and social planning and strengthen further the multidisciplinary approach to these issues developed in Vienna over recent years. Nowhere was the need for this inter-sectoral approach more apparent than in the resolution on Urban Crime. The proposal to hold a major international conference, or summit, on urban crime, was therefore very attractive and the co-ordinated approach now being followed in the United Nations Office at Vienna should enable the Organization to make a useful contribution to any such initiative.

38. Another existing resource that should be expanded is the network of national correspondents. While the United Nations could not provide all that was necessary to maintain a global mutual support system, it could furnish the necessary structure - through these Congresses, the preparatory and follow-up meetings, the information network, guidelines and basic standards. It could also act as a catalyst for the exchange of information and experience, as well as provide technical support where needed. Ultimately the effectiveness of the international effort would depend on the use made by Member States of the United Nations framework and on the commitment of the parties concerned.

39. The Secretary-General stressed the imperative need to develop much more extensively the practical capacity to assist those countries which need, and request, the help of the United Nations so as to bring about tangible results on the ground. This would be the crucial test of all the instruments presented to the Congress. Would they be implemented into legislation and would there be practical co-operation in prosecuting crime and maintaining basic human rights standards? The most tangible means of demonstrating solidarity with those struggling at the front lines with drug traffickers, terrorists, environment polluters, corrupt officials and against human rights violations was through technical or material assistance. During the past several years, a number of advisory missions had been undertaken to various countries. But these had fallen far short of the requests and the capacity to follow them up was pitifully inadequate.

40. More could be done even within present painfully constricted resources, but this would mean devoting less of the existing technical capacity to developing new instruments and more to supporting operational programmes designed to ensure the implementation of those already existing. It thus came back to the earlier question of priorities, and a decision as to whether to continue to concentrate on "What to do" or lean more, now that there was a considerable body of instruments to hand, towards "How to do it". One complementary solution would be to persuade operational funding organizations, such as the United Nations Development Programme

and the World Bank, that programmes in crime prevention were directly germane to the attainment of development goals. That perception was not as yet fully shared by all.

41. The Congress thus had important messages to send out that would critically determine the future direction and nature of the United Nations crime programme. She expressed the hope that it would reach very practical and concrete results in four main areas: (i) the adoption of the instruments, resolutions and guidelines before the Congress; (ii) very clear directives about future priorities, in the light of continuing resource constraints, and particularly the relative emphasis to be given by the United Nations Crime-Justice Programme to developing further new interests, on the one hand, and, on the other, to ensuring the implementation of these already adopted; (iii) the basis for a strengthened and well focused United Nations crime and justice programme, premised on a realistic assessment of the resource prospects and the maintenance of a multidisciplinary approach and close linkages with other related programmes in the social area and dealing with development generally; and (iv) an expanded and more effective technical co-operation programme.

42. The Secretary-General concluded by recalling that the scourge of crime continued to afflict all, without distinction between the countries of the North and South, whether rich or poor, whether developed or developing, and affected all social sectors without exception. Access to justice and humanization of justice should consistently be pursued. The chain of international co-operation could not be firmly forged if one of its links was missing or very fragile. The international chain of criminal activity, in contrast, was alive and vigorous. The undeniable proof of this is shown by the hundreds of judges, attorneys, journalists, officials and innocent victims struck down by the power of these organizations. An effective and equitable system of crime prevention was essential to development; and crime, as José Martí had pointed out, could not be divorced from social conditions. Indeed, to the so-called 4-D equation - the interrelationship between Drugs, Debt, Development and Democracy, one could add a fifth: Delinquency. The success of the international community in its struggle to combat crime would, to a large extent, condition the future of our civilization and the quality of life in the new millennium starting in barely 10 years' time. In the words of Simon Bolivar, the Liberator, "If we make justice prevail, liberty will prevail."

G. Adoption of the rules of procedure

(agenda item 2 (b))

43. At its 1st plenary meeting, on 27 August 1990, the Congress adopted its rules of procedure by consensus (A/CONF.144/2 and Corr.1). After the adoption of the rules of procedure, the President made the following statement:

> "Without prejudice to the rules of procedure adopted by the Congress, my understanding is that this Congress should make every effort to attain consensus in all substantive matters."

H. Election of officers other than the President

(agenda item 2 (e))

44. At its 1st plenary meeting, the Congress elected by acclamation Yacouba Sall (Mali), Rapporteur-General, Bo Svensson (Sweden), Chairman of Committee I, Minoru Shikita (Japan) Chairman of Committee II, Vladimir Kambovski (Yugoslavia) First Vice-President, and the following States as Vice-Presidents: Austria, Brazil, Canada, Central African Republic, Chile, China, Colombia, Finland, Guinea, India, Iran (Islamic Republic of), Madagascar, Mexico, Mozambique, Morocco, Netherlands, Pakistan, Philippines, Poland, Trinidad and Tobago, Uganda, Union of Soviet Socialist Republics and United Kingdom of Great Britain and Northern Ireland. Those officers, together with the President, constituted the General Committee.

45. At its 1st meeting, on 27 August, and its 6th meeting, on 30 August, respectively, Committee I elected the following officers other than the Chairman: Alphonse Nzoungou (Congo), Vice Chairman; and Celia Leones (Philippines), Rapporteur.

46. At its 1st meeting, on 27 August, Committee II elected the following officers other than the Chairman: Bohumil Repik (Czechoslovakia), Vice-Chairman; and Gustavo Adolfo De Paoli (Argentina), Rapporteur.

I. Adoption of the agenda

(agenda item 2 (c))

47. At its 1st plenary meeting, the Congress adopted as its agenda the provisional agenda (A/CONF.144/1) as approved by the Economic and Social Council in its resolution 1987/49 of 28 May 1987 and endorsed by the General Assembly in its resolution 42/59 of 30 November 1987. The agenda was as follows:

1. Opening of the Congress.

2. Organizational matters:

   (a) Election of the President;

   (b) Adoption of the rules of procedure;

   (c) Adoption of the agenda;

   (d) Organization of work;

   (e) Election of officers other than the President;

   (f) Credentials of representatives to the Congress:

      (i) Appointment of the members of the Credentials Committee;

      (ii) Report of the Credentials Committee.

3. Crime prevention and criminal justice in the context of development: realities and perspectives of international co-operation (topic I).

4. Criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures (topic II).

5. Effective national and international action against:

   (a) Organized crime;

   (b) Terrorist criminal activities (topic III).

6. Prevention of delinquency, juvenile justice and the protection of the young: policy approaches and directions (topic IV).

7. United Nations norms and guidelines in crime prevention and criminal justice: implementation and priorities for further standard-setting (topic V).

8. Adoption of the report of the Eighth Congress.

J. Organization of work

48. At its 2nd plenary meeting, on 27 August, in accordance with the recommendation of the pre-Congress consultations (see A/CONF.144/L.1), the Congress approved its organization of work (A/CONF.144/3/Rev.1, annex) on the understanding that any adjustments that might be required would be made during the course of the Congress. Accordingly, agenda items 1, 2, 3 and 8 would be considered directly in plenary meetings, agenda items 4 and 6 would be allocated to Committee I and agenda items 5 and 7 to Committee II.

49. The Congress also approved a number of recommendations in regard to its organization of work and the report of the Congress.

K. Credentials of representatives to the Congress: appointment of members of the Credentials Committee

(agenda item 2 (f))

50. At the same meeting, in accordance with rule 4 of the rules of procedure (A/CONF.144/2 and Corr.1) and on the proposal of its President, the Congress decided that the Credentials Committee would be composed of the following States: Antigua and Barbuda, Australia, China, Colombia, Malawi, Netherlands, Philippines, the Union of Soviet Socialist Republics and Zaire.

L. Implications of Congress decisions for the programme budget of the United Nations

51. At the 11th plenary meeting, on 4 September 1990, before the consideration of draft resolutions and other recommendations, the President of the Congress stated that any provisions of those draft resolutions or recommendations that had implications for the programme budget of the United Nations would be brought to the attention of the General Assembly by the Secretary-General at the time when the Assembly considered the report of the Congress.

CHAPTER IV

CONSIDERATION OF AGENDA ITEMS IN PLENARY MEETINGS AND BY THE SESSIONAL BODIES AND ACTION TAKEN THEREON BY THE CONGRESS

A. Consideration of agenda item 3 in plenary meetings

Crime prevention and criminal justice in the context of development: realities and perspectives of international co-operation

52. At its 1st plenary meeting, on 27 August, the Congress allocated to the plenary, in accordance with Economic and Social Council resolution 1987/49 of 28 May 1987, agenda item 3 entitled "Crime prevention and criminal justice in the context of development: realities and perspectives of international co-operation". The Congress considered agenda item 3 at its 2nd to 9th meetings, from 27 to 31 August. For its consideration of the item, the Congress had before it the following documents:

(a) Report of the Committee on Crime Prevention and Control on its eleventh session; 235/

(b) Report of the Committee on Crime Prevention and Control entitled "The need for the creation of an effective international crime and justice programme" (E/1990/31/Add.1);

(c) Working paper prepared by the Secretariat on crime prevention and criminal justice in the context of development: realities and perspectives of international co-operation (A/CONF.144/5);

(d) The Third United Nations Survey on Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies: report prepared by the Secretariat (A/CONF.144/6);

(e) Proposals for concerted international action against forms of crime identified in the Milan Plan of Action: report prepared by the Secretariat (A/CONF.144/7);

(f) Practical measures against corruption: manual prepared by the Secretariat (A/CONF.144/8);

(g) Inventory of comprehensive crime prevention measures: note by the Secretariat (A/CONF.144/9);

(h) Implementation of the resolutions and recommendations of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders: report of the Secretary-General (A/45/324).

235/ Official Records of the Economic and Social Council, 1990, Supplement No. 10 (E/1990/31).

53. The Secretary-General of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders introduced agenda item 3 and stated that the subject had provided, in the past five years, the link between the Seventh and Eighth Congresses. Governments and intergovernmental and non-governmental organizations had been exchanging experiences and discussing both their problems and their successes in crime prevention and criminal justice. Thus, the topic should stimulate an even more constructive dialogue among Member States, and so strengthen international co-operation.

54. In highlighting the seriousness of crime and its prevention in the context of development, the Secretary-General of the Congress said that crime affected all countries, regardless of their level of development or form of government. Most crime problems were common to all countries. Economic crime, large-scale fraud, smuggling and illicit flight of capital posed a real threat to development. Drug abuse and drug trafficking had destroyed millions of lives in all parts of the world. Governments could be undermined by the crime and corruption which accompanied drug trafficking. Its linkage to illegal arms deals, terrorism and subversion endangered the security of nations, destroyed human lives and had adverse consequences on the physical and mental well-being of large segments of the population. The financial and social costs were immense.

55. Both nationally and internationally, some progress had been made in understanding the interaction between certain aspects of development, such as population growth and migration, industrialization and employment on the one hand, and the incidence and types of criminality on the other. The interlinkages between crime and development, however, formed an area in which knowledge continued to lag behind awareness. Economic growth created increased opportunities for the legitimate satisfaction of needs and should lead to higher standards of living, but it was also accompanied by increased opportunities for crime.

56. There was need for a coherent, integrated and comprehensive approach to crime prevention and criminal justice. All relevant disciplines had to be involved in dealing with the problems of criminality in order to ensure a multisectoral approach. It was essential to reinforce data collection and action-oriented research and analysis, based on inputs from different sectors of the economy, and to disseminate the results of that work more widely. Furthermore, successful crime prevention strategies called for fair and effective criminal justice systems, able to respond effectively to the realities of crime.

57. With regard to technical co-operation, the Secretary-General of the Congress emphasized that international co-operation could not be effectively pursued unless there was adequate attention to its operational aspects. Strategies for crime prevention and criminal justice had little meaning for many countries if they did not possess a well-equipped and functional institutional capacity and lacked the necessary human and financial resources to put them into effect.

58. The Secretary-General of the Congress informed the plenary that, in line with numerous recommendations of legislative bodies, the Committee on Crime Prevention and Control, at its tenth session, had decided to establish a sub-committee to review the requirements for effective international action in crime prevention and criminal justice. At its eleventh session, the Committee approved the report of the sub-committee (E/1990/31/Add.1). She also drew attention to decision 11/122 of the Committee on Crime Prevention and Control on the review of the functioning and programme of work of the United Nations in crime prevention and criminal justice.

59. The Secretary-General of the Congress concluded by stating that the crime prevention and criminal justice programme could never have progressed as far as it had, had it not been for the firm support of Governments, many of whom had provided extrabudgetary resources in kind or in cash; without the advocacy and hard work of the United Nations institutes and of the community of non-governmental organizations; and without the expert advice and guidance of so many concerned individuals.

60. Mr. Antoine Blanca, Director-General for Development and International Economic Co-operation, also made an introductory statement in which he emphasized the devastating impact of the cycle of misery, explosive population growth and world-wide poverty. The widening gap between developed and developing nations was disrupting societies and impeding national growth.

61. Rising crime was impairing the development process and human well-being and was causing deep schisms. He expressed his conviction that a greater understanding of the effects and causes of crime would contribute to the adoption of more effective preventive measures and to a balanced and enlightened system of criminal justice which would promote social stability and enhance development potential. The widening economic and social disparities, with unprecedented affluence for some and abject poverty for others, had dangerous consequences for security within and among States.

62. In a world of instant communications, those disparities had generated and exacerbated tensions and conflicts, denying citizens the opportunity to fully exercise their fundamental rights. Upheavals and social disorder were no doubt a direct result of the inability to find the proper response to the challenge of development. In developing countries, population growth, urbanization, industrialization, modernization and poverty were traditionally deemed to be among the factors influencing crime rates. Appropriate economic and social policies addressing those issues would contribute to decreasing the levels of crime and the demands on criminal justice systems.

63. In conclusion, the Director-General stated that observance of the rights to life, physical integrity and basic freedoms was crucial to the achievement of the ultimate goal of development, which was individual and collective well-being. It was important to incorporate crime prevention elements in development programmes and technical co-operation activities. He hoped that the decisions and recommendations of the Congress would contribute to a more viable development process, free of the negative side-effects, such as crime.

64. There were, however, no tried and true solutions that worked in all circumstances. While benefiting from experiences of other countries, each nation had to rely on its own experience and traditions in devising the most appropriate approaches and strategies. However, the overall perspectives could be broadened and the repertoire of action enriched by the experience of others. The Congress provided an opportunity for the exchange of knowledge and expertise that benefited all countries, and for important decisions, and he wished it every success.

65. The discussion of the topic provided an opportunity for an exchange of views and experiences on issues of interest to Member States and the scientific community. Eighty-three representatives of Governments, including 26 Ministers, as well as representatives of intergovernmental and non-governmental organizations, United Nations interregional and regional institutes for the prevention of crime

and the treatment of offenders, and individual experts, contributed to the discussion. In particular, emphasis was placed on crime trends, national efforts for crime prevention and criminal justice, and the need for more effective and practical co-operation in this field.

1. Crime trends

66. Much of the discussion was concerned with the forms of crime affecting the quality of life, and their escalating trends. Many delegations reported that crime statistics in their countries indicated a constant increase in recorded crime. The problem of crime was becoming more serious both in quality and in quantity. Few delegations reported a relatively stable crime situation in their countries. Most stressed that not only were new forms of crime an alarming development, but that conventional criminality, such as mugging, burglaries and other offences against property, remained a major problem, creating insecurity and anguish among the public. All participants stressed the seriousness of transnational crimes, which undermined the political and economic stability of nations and had adverse consequences on the well-being of large segments of the population. Transnational criminals were sophisticated and dynamic, and took advantage of all the legislative and regulatory inadequacies. Economically weaker countries were preyed upon by such criminals. Economic crimes, such as illegal industrial and trade practices, illegal transactions and money laundering, large-scale breaches of trust, tax evasion, customs and banking fraud, computer crimes, cultural theft, corruption, and various forms of abuse of power had a devastating effect on many nations.

67. Concern was expressed by a number of speakers about the seriousness and extent of environmental crimes. The destructive impact of such offences was felt beyond the borders of the country in which such acts were initiated. By way of example, environmental degradation through air, water and land pollution ceased to be exclusively a matter of national concern and called for an international response. In many countries, industries had developed without a well-designed legal infrastructure which would help to control and ensure compliance with environmental guidelines and standards. The dangerous dumping of toxic wastes in certain parts of the world also caused alarm. Some of the serious consequences of such offences were already clear, while others were only beginning to be visible. In that connection, support was given to decision 11/114 of the Committee on Crime Prevention and Control on the role of criminal law in the protection of nature and the environment, and all those concerned called for its adoption by the Congress and its full implementation.

68. Great importance was attached to combating illicit drug trafficking and drug-related offences. It was noted that there had been an increase in the number of seizures of illegal drugs world wide. Better co-ordination at the national and international levels had assisted local law enforcement agencies in making those seizures. The view was expressed that, along with apprehension and confiscation, crop substitution and eradication programmes, which would not damage the ecology, were essential. It was also important to attack the networks of international drug traffickers and break their links with illegal arms trade and terror, while witnesses and judges should be adequately protected. Law enforcement agencies should be strengthened, and training of law enforcement personnel in the presentation of evidence to courts should be improved so as to ensure speedy justice, thus avoiding police frustration. The seizure and freezing of assets derived from illicit drug trafficking were also recommended. Many drug-producing

countries had embarked on a courageous struggle for crop eradication. In that connection, it was suggested that developed countries should support those efforts, particularly in the economic field. Crime and drug addiction were closely linked. The fight against drug addiction, therefore, required a preventive and comprehensive social effort. Some delegations stated that while their countries were not directly affected by drug-related operations and abuse, their territories had become transit routes for drug traffickers, and a call was made for more co-operation and exchange of information in that respect.

69. Several speakers referred to the problem of terrorism and organized crime and called for an effective response. Even those countries which had not experienced acts of terrorism on their own territory expressed the view that they should be vigilant and continue to co-operate with other interested States to curb the scourge of terrorism. The seriousness of acts committed by mercenaries in different parts of the world, which were threatening internal security and stability, was noted. Small countries were demonstrably at greater risk of being overrun by criminal terrorists, rather than large, well-defended States. In that regard, there was a need to formulate regional plans of action, in concert with other nations, to deter the criminal terrorist. A regional security force could be called upon to respond to acts of terrorism threatening any of the region's members.

70. Governments had taken various measures to counter terrorism, and some had also instituted government compensation for victims of terrorist acts. Since international terrorism was not only committed by individuals or groups but also perpetrated as a result of decisions taken by Governments, there was a need to define the difference between terrorists, freedom fighters and victims of terrorism. The fight against terrorism had to draw on advances in technology and effective approaches to deal with the different manifestations of terrorism. It was reported that innovative techniques for the prevention and detection of terrorist acts had been developed, and the search for additional legislative tools which could provide adequate answers to this problem was being pursued. It was also suggested that an international convention on combating terrorism should be formulated, since terrorist acts recognized no boundaries, and that an international anti-terrorism data base of non-classified legal documentation developed on criminal proceedings should be co-ordinated through the United Nations Criminal Justice Information Network (UNCJIN).

71. With reference to computer-related criminality, it was pointed out that the increased use of data processing in national economies and bureaucracies had led to criminal abuse. Transnational interference with foreign data processing systems had attracted world-wide attention. The main problem of computer crime lay in the unauthorized copying and dissemination of computer programs and the misuse of cash dispensers. Other forms of computer crime were as yet less widespread but required preventive measures in order not to escalate. It was generally assumed that there was a high number of cases of undetected computer crime. As computer crimes were a relatively new phenomenon, and in view of the absence of counter-measures, the dishonest use of computers could have disastrous consequences. It was recommended, in that connection, that norms and guidelines on computer security should be established so as to assist the international community in dealing with these forms of crime. It was stressed that the problem of computer crime, however, should not discourage the support of international efforts to increase the computerization of criminal justice systems.

72. With respect to corruption, it was generally recognized that corruptive practices hampered economic growth by fostering non-productive activities and inefficiency. Corruption was becoming more transnational in character. Corrupt public officials were vulnerable to bribery across national borders, especially when large sums of money were involved. Effective national and multilateral approaches to deal with corruption should be pursued. The manual on practical measures against corruption, prepared by the Secretariat (A/CONF.144/8 and Corr.1), was considered a worthwhile model that would assist Member States in their fight against that scourge. It was suggested that, based on national experiences, a code of ethics should be introduced for compliance by individuals and organizations, and that the United Nations should provide leadership in this regard. Such a code could be used as a model for more specific initiatives which would not only articulate the values of public administration but also include statements of the managerial objectives and obligations of the community. The media should be involved in raising the awareness of the public at large about corrupt practices. Training of law enforcement personnel responsible for the investigation of cases of corruption should also be ensured.

73. Reference was made to the problem of violence in the family and the need for an improved response to it by criminal justice systems and service delivery agencies. A proper assessment of the extent of violence within families was hampered by the non-reporting of many of those often violent crimes, particularly those of sexual assault. Thus, police records could not be accurate, but victimization surveys provided additional information about the extent of that type of crime. Domestic violence was the result of complex interlinkages of various contributing factors. The influence of the immediate family, where aggressive behaviour was first learned, was extremely important. Other factors, such as economic hardship, cultural disintegration, gender inequality, abuse of alcohol and drugs, the influence of the media and access to weapons, also contributed to such violence. It was suggested that further work should be undertaken by the United Nations on that subject, focusing on preventive strategies. Particular attention should be paid to those victims of domestic violence who were at greatest risk, such as young children, the elderly, the physically or mentally handicapped and women.

74. Concern was expressed by many delegations about crimes against the cultural heritage. In recent years there had been unprecedented levels of pillaging, theft and destruction of cultural property in museums, religious centres, archaeological sites and private collections, representing a threat to the cultural property of nations. The surge in art marketing was resulting in proliferating thefts of cultural property from developing countries. It was therefore stressed that international norms governing the theft or illegal export of cultural property should be strengthened because of the increase in clandestine excavations. In that connection, reference was made to the model treaty for the prevention of crimes that infringe upon the cultural heritage of peoples in the form of moveable property, submitted to the Congress for consideration and action. Its basic advantage was that it proposed several options for Member States to mould the model treaty to their particular circumstances. The exchange of information in the area of moveable cultural property and need for the creation of a comprehensive data-bank and an information network in this area were also recommended.

75. Concern was further expressed about the growing abuse of diplomatic privileges and the diplomatic pouch. The Vienna Convention on the Immunities and Privileges of Diplomats guaranteed the confidentiality of the pouch.

2. Crime prevention and the criminal justice system

76. Crime prevention and criminal justice were considered by many delegations to be fundamental to development and the democratic process. It was emphasized that effective measures against crime should be made an integral part of development planning and programmes cutting across various sectors, such as education, employment, health, housing and social services. Adherence to human rights principles and the creation of conditions under which they could be freely exercised were essential. Policies aimed at combating only the apparent effects of crime and not its root causes were, according to some speakers, bound to be ineffective.

77. Many delegations reported that their countries were undergoing profound social, economic and political changes that made it difficult to respond adequately to the new crime problems, particularly in their emerging forms and dimensions. Such ongoing changes had to be accompanied by appropriate reforms. New directions and approaches had to be sought both at the national and international levels as regards the concepts, measures, procedures and institutions envisaged by crime prevention policies and strategies. Others were of the opinion that the lack of decent socio-economic conditions in many countries brought about crime as a product of poverty, illiteracy and unemployment. The complex linkages between crime and poverty, and between anti-social behaviour and economic deprivation necessitated action-oriented research, the result of which would further clarify these relationships and provide methodologies for the practical application of appropriate policies.

78. Special reference was made to the fight against urban crime, which should involve the entire society and all countries. The underlying causes of crime could be tackled by providing everyone with equal opportunities for integration into society. Emphasis should not be on punishment but rather on prevention and rehabilitation. This required close working links among all the parties concerned, including teachers, social workers and other sectors of the society. The view was expressed that prevention and punishment should work in tandem. Punishment, when imposed, should be accompanied by an attempt to rehabilitate the offender and compensate the victim; imprisonment alone was not adequate. It should be applicable only to the most serious crimes, and other imaginative ways should be sought to deal with less serious offenders. A modern strategy for combating crime had to include the rationalization of procedures so that pre-trial detention time would be reduced to the minimum. Research and education on the causes as well as symptoms of crime and the socio-economic and political factors associated with it should be pursued and practical training should be offered to specialists in the field.

79. Many delegations placed emphasis on the need for a clear definition of a coherent and balanced social policy and proper identification of social needs, accompanied by public education campaigns so as to raise the awareness of citizens and involve them in the fight against crime, thus reducing the opportunities for crime. Newly formulated policies and legislation should be as dynamic as the modes of criminal behaviour and should remain abreast of the changes in the forms and dimensions of crime. In general, the approach should be based on a strong partnership in the community and an avoidance of fragmentary policy responses. However, the protection of the public against crime had to be reconciled with respect for the rights of the individual. The balance between the two could not be taken for granted: vigilance was needed to ensure it.

80. Most delegations that had contributed to the discussion reported on the new measures taken by their Governments to enhance the efficacy of the mechanisms used for crime prevention and control and improved performance of the criminal justice system. Such measures included the establishment of specialized units and commissions and the enactment of new laws and regulations to face the newly emerging needs, particularly in relation to environmental offences, corruption, alternatives to imprisonment, juvenile justice, the treatment of offenders, money laundering, compensation of victims of crime, prison reform and the investigation, tracing, and seizure of the proceeds of crime.

81. With regard to the role of the criminal justice system, many delegations emphasized that successful crime prevention strategies required an effective and humane criminal justice system, which should operate in accordance with internationally recognized human rights and standards. It was also stressed that the criminal justice system should function in a co-ordinated manner, ensuring constant interaction between the criminal justice agencies. It should not only serve as an instrument of control and deterrence, but also contribute to the objectives of maintaining internal peace and security and safeguarding human rights. Criminal justice systems should be developed and equipped to deal with transnational criminality, with particular emphasis on the training of personnel and upgrading of their skills. In this endeavour, Member States should benefit from existing United Nations standards, norms and guidelines, and should harmonize national laws with those principles which could be applicable at the national level. Efforts to humanize the criminal justice system should also include the formulation and implementation of guidelines on the fair treatment of the accused. It was further proposed that incentives should also be provided to offenders so as to stimulate positive behaviour of those who have come into conflict with the law.

82. The attention of the plenary was drawn to the question of the abolition of capital punishment. Reference was made to the adoption by the General Assembly, in its resolution 44/128 of 15 December 1989, of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. States acceding to the Protocol had the duty to refrain from carrying out executions and to abolish the death penalty within the terroritory under their respective jurisdiction. To some delegations, the adoption of the Second Optional Protocol marked a new era in the promotion of the right to life and human dignity. Others were of the opinion that the death penalty served as a deterrent the abolition of which would encourage the commission of serious criminal acts as the fear of severe punishment would have been removed. Supporters of the death penalty advanced the argument that its abolition was inconsistent with genuine justice and incompatible with the equality of rights of persons before the law and the notion that punishment should be commensurate with the crime. It was pointed out by others, however, that research did not support the contention of the deterrent effect of capital punishment and that there was no increase in criminality where it had been abolished. They believed that the humanization of criminal justice, along with those findings, militated against the application of capital punishment.

3. International co-operation and the role of the United Nations

83. All delegations attached great importance to effective international co-operation against crime. It was stressed that although there were a number of regional and global instruments dealing with particular issues of such

co-operation, much more was needed to bridge the widening gap between the realities of transnational criminality and the response to it.

84. There was a need to develop clear ideas and a firm attitude on international co-operation, free of isolationism while respecting the sovereignty of States. Some delegations considered that the threat of major international crimes necessitated the establishment of an international criminal court. It would serve as an instrument for the defence of international peace and security, without which the sovereignty of some States, particularly small States, could be placed in jeopardy. The establishment of a world foundation on crime control and assistance to victims was also suggested, the objective of which would be, among other things, to provide assistance to victims of international crime and contribute to the efforts of the international community to face the challenge of criminality in its new forms and dimensions.

85. There was general agreement that the internationalization of crime called for effective multilateral efforts for crime prevention and control, and that the United Nations should be the focal point for such efforts. The United Nations crime prevention and criminal justice programme should help to strengthen collaborative arrangements between countries, promote technical co-operation and assistance for more effective crime prevention and humane justice, and design appropriate procedures to translate United Nations norms and guidelines into concrete terms.

86. Many delegations expressed the view that the lack of resources and of technical expertise in their countries made it difficult for them to provide an adequate response to crime. The problem was exacerbated by the economic difficulties facing their Governments and by competing priorities. The provision of technical assistance and interregional advisory services was urged as a means of helping Governments to combat crime. Such assistance should be directed towards concrete operational projects. Greater co-ordination and mutual assistance and co-operation between related organizations operating in this field was urgently needed. A more active role should be played by funding agencies engaged in development assistance in order to strengthen technical co-operation in the crime field. Crime prevention and criminal justice concerns should be an integral part of international efforts aimed at social and economic development. Assistance was requested in a number of areas, particularly the development of data bases on crime trends and the operation of the criminal justice systems, training of personnel and upgrading of their skills to enable them to deal with sophisticated crime problems, and fostering the practical application of the international instruments formulated in this field. It was also proposed that a global co-operative training programme, co-ordinated by the United Nations, utilizing the resources of interested Governments, should be established.

87. Great importance was also attached to the United Nations role and the creation of an effective international crime and justice programme. It was stressed that the United Nations should have the capacity to serve all Member States as a source of reliable and timely information that would serve as a base for multilateral co-operation. Joint action programmes were also necessary to make tangible inroads into crime. In particular, reference was made to the recommendations of the Committee on Crime Prevention and Control contained in its report entitled "The need for the creation of an effective international crime and justice programme" (E/1990/31/Add.1). In commenting on the thrust of those recommendations and goals to be achieved, several delegations noted that, in view of the existing financial

constraints, priority setting was imperative. Others considered that the United Nations resolutions and recommendations already reflected Member States' views on priority actions and that the solution was an increase in financial support. Some delegations felt that a convention on international co-operation in crime prevention and criminal justice, as recommended by the Committee on Crime Prevention and Control, deserved careful consideration. Other delegations, however, stated that while it had its attraction, the negotiation and preparation of such a convention could be a lengthy process, taking up resources of the Secretariat and of Member States which could more profitably be devoted to the tasks. The most promising form for a convention was one which provided the structural framework for a concerted United Nations programme. The Committee's decision 11/122 on the review of the functioning and programme of work of the United Nations in crime prevention and criminal justice was widely supported and the need for the creation of a more effective United Nations programme in this field was stressed repeatedly. Everything possible should be done so that the momentum was not lost. The future course of crime prevention and criminal justice in the context of global economic and political realities depended on the political will of Member States, and only their determination and collective efforts could make the Committee and Congress recommendations a reality.

Consideration of proposals

88. In the course of its deliberations, the plenary considered the following draft resolutions and decisions:

(a) Draft resolution entitled "Prevention of urban crime" (A/CONF.144/L.3), submitted by the Vice-President of the Congress on the basis of informal consultations on the draft resolution contained in decision 11/102 of the Committee on Crime Prevention and Control; 235/

(b) Draft resolution entitled "The role of criminal law in the protection of nature and the environment" (A/CONF.144/L.4), submitted by the Vice-President on the basis of informal consultations on the draft resolution contained in decision 11/114 of the Committee on Crime Prevention and Control;

(c) Draft resolution entitled "International co-operation for crime prevention and criminal justice in the context of development" (A/CONF.144/L.5), submitted by the Vice-President on the basis of informal consultations on the draft resolution contained in decision 11/104 of the Committee on Crime Prevention and Control;

(d) Draft resolution entitled "International co-operation and mutual assistance through training programmes and exchange of information" (A/CONF.144/L.6), sponsored by France, the Federal Republic of Germany, Israel, Malta, New Zealand and the United Kingdom of Great Britain and Northern Ireland;

(e) Draft resolution entitled "Consolidation of the role of national correspondents" (A/CONF.144/L.7), sponsored by Australia, Belgium, France, the Federal Republic of Germany, Israel, New Zealand, Sierra Leone and the United Kingdom of Great Britain and Northern Ireland;

(f) Draft resolution entitled "Organized crime and illicit trafficking in narcotic drugs and psychotropic substances" (A/CONF.144/L.8), sponsored by Brazil on behalf of the group of Latin American and Caribbean States;

(g) Draft resolution entitled "Organized crime" (A/CONF.144/L.9/Rev.1), sponsored by Argentina, Brazil, Colombia, Costa Rica and Cuba;

(h) Draft resolution entitled "Use of automated information exchange to combat crimes against movable cultural property" (A/CONF.144/L.10), sponsored by Algeria, Australia, Bolivia, Botswana, Canada, the Congo, Cyprus, Czechoslovakia, Djibouti, Ecuador, Gabon, the Federal Republic of Germany, Hungary, Italy, Lesotho, Madagascar, Malta, New Zealand, Nigeria, Norway, the Philippines, Sweden, Trinidad and Tobago and Zaire;

(i) Draft resolution entitled "Computer-related crimes" (A/CONF.144/L.11), sponsored by Australia, Bangladesh, Canada, Costa Rica, Cuba, Czechoslovakia, Finland, France, the Federal Republic of Germany, Hungary, Malaysia, Mexico, the Netherlands, New Zealand, Nigeria, Norway, Saudi Arabia, Sweden, Switzerland, the Union of Soviet Socialist Republics and Zimbabwe;

(j) Draft resolution entitled "Development of United Nations criminal justice statistical surveys" (A/CONF.144/L.12), sponsored by Australia, the Byelorussian Soviet Socialist Republic, Canada, Costa Rica, Finland, Hungary, Ireland, Madagascar, the Netherlands, New Zealand, Sierra Leone, Sweden and the United Kingdom of Great Britain and Northern Ireland;

(k) Draft resolution entitled "Corruption in government" (A/CONF.144/L.13), sponsored by Argentina, Australia, Belgium, Burundi, the Byelorussian Soviet Socialist Republic, Canada, Cuba, Cyprus, France, the Federal Republic of Germany, Greece, Hungary, Indonesia, Israel, Italy, Jamaica, Madagascar, Nepal, the Netherlands, New Zealand, Nigeria, Norway, the Philippines, Poland, Samoa, Trinidad and Tobago, Uganda, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania and Zambia, subsequently joined by Spain, the Ukrainian Soviet Socialist Republic and Zaire;

(l) Draft resolution entitled "Support for the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders" (A/CONF.144/L.14/Rev.1), sponsored by Brazil on behalf of the group of Latin American and Caribbean States;

(m) Draft resolution entitled "Support for the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders" (A/CONF.144/L.15), sponsored by Benin, Botswana, the Central African Republic, Ethiopia, Ghana, Kenya, Lesotho, the Libyan Arab Jamahiriya, Malawi, Morocco, Nigeria, Senegal, Somalia, Uganda, the United Republic of Tanzania and Zimbabwe, subsequently joined by the Congo;

(n) Draft resolution entitled "Measures against drug addiction" (A/CONF.144/L.16), sponsored by Belgium, the Byelorussian Soviet Socialist Republic, Canada, the Central African Republic, Colombia, the Congo, Gabon, the Federal Republic of Germany, Finland, France, Portugal, Spain, Switzerland, the Ukrainian Soviet Socialist Republic, the Union of Soviet Socialist Republics and the United Kingdom of Great Britain and Northern Ireland, subsequently joined by Austria and Mali;

(o) Draft resolution entitled "Social aspects of crime prevention and criminal justice in the context of development" (A/CONF.144/L.17), submitted by the President of the Congress on the basis of informal consultations;

(p) Draft decision entitled "Need to amend the Vienna Convention on Diplomatic Relations" (A/CONF.144/L.18), sponsored by Saudi Arabia;

(q) Draft resolution entitled "Model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of cultural property" (A/CONF.144/L.19), submitted by the Vice-President on the basis of informal consultations on the draft resolution contained in decision 11/119 of the Committee on Crime Prevention and Control and on document A/CONF.144/L.2;

(r) Draft resolution entitled "Review of the functioning and programme of work of the United Nations in crime prevention and criminal justice" (A/CONF.144/L.20), submitted by the Vice-President on the basis of informal consultations on the draft resolution contained in decision 11/122 of the Committee on Crime Prevention and Control;

(s) Draft decision entitled "Implementation of the conclusions of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders" (A/CONF.144/L.21), sponsored by Austria, Canada, Israel, Italy, Finland, France, the Federal Republic of Germany, Norway, Sweden, Turkey and the United Kingdom of Great Britain and Northern Ireland, subsequently joined by Cyprus.

Action taken by the Congress

Prevention of urban crime

89. At its 11th plenary meeting, on 4 September 1990, the Congress had before it draft resolution A/CONF.144/L.3. The Secretary of the Congress read out the revisions agreed upon during informal consultations held on the draft resolution.

90. Statements were made by the representatives of France, Canada, Australia and the United Kingdom.

91. At the same meeting, the Congress adopted the draft resolution as orally revised. (For the text, see chap. I, sect. C, resolution 1.)

The role of criminal law in the protection of nature and the environment

92. At its 11th plenary meeting, the Congress had before it draft resolution A/CONF.144/L.4. The Secretary of the Congress read out the revisions agreed upon during informal consultations held on the draft resolutions.

93. Statements were made by the representatives of the Netherlands, Canada, Colombia and Belgium.

94. At the same meeting, the Congress adopted the draft resolution as orally revised. (For the text, see chap. I, sect. C, resolution 2.)

International co-operation for crime prevention and criminal justice in the context of development

95. At its 11th plenary meeting, the Congress had before it draft resolution A/CONF.144/L.5.

96. At the same meeting, the Congress adopted the draft resolution. (For the text, see chap. I, sect. A, resolution 1.)

International co-operation and mutual assistance through training programmes and exchange of expertise

97. At the 11th plenary meeting, the representative of Israel introduced draft resolution A/CONF.144/L.6 on behalf of the sponsors.

98. At its 12th plenary meeting, on 5 September 1990, the Congress adopted the draft resolution. (For the text, see chap. I, sect. C, resolution 4.)

Consolidation of the role of national correspondents

99. At the 11th plenary meeting, the representative of Israel introduced draft resolution A/CONF.144/L.7 on behalf of the sponsors.

100. At its 12th plenary meeting, the Congress adopted the draft resolution. (For the text, see chap. I, sect. C, resolution 5.)

Use of automated information exchange to combat crimes against movable cultural property

101. At the 11th plenary meeting, the representative of Canada introduced draft resolution A/CONF.144/L.10 on behalf of the sponsors.

102. At the 12th plenary meeting, the Secretary of the Congress read out revisions agreed upon during informal consultations held on the draft resolution.

103. At the same meeting, the Congress adopted the draft resolution as orally revised. (For the text, see chap. I, sect. C, resolution 6.)

Model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property

104. At its 12th plenary meeting, the Congress had before it draft resolution A/CONF.144/L.19. The Secretary of the Congress read out revisions agreed upon during informal consultations held on the draft resolution.

105. At the same meeting, the representative of the Union of Soviet Socialist Republics proposed further revisions to the draft resolution, which were accepted.

106. Also at the same meeting, the Congress adopted the draft resolution as orally revised. (For the text, see chap. I, sect. B, resolution 1.)

Corruption in government

107. At the 11th plenary meeting, the representative of the Netherlands introduced draft resolution A/CONF.144/L.13 on behalf of the sponsors.

108. At the 12th plenary meeting, the Secretary of the Congress read out revisions agreed upon during informal consultations held on the draft resolution.

109. At the same meeting, the Congress adopted the draft resolution as orally revised. (For the text, see chap. I, sect. C, resolution 7.)

Racketeering and illicit trafficking in narcotic drugs and psychotropic substances

110. At the 12th plenary meeting, the representative of Mexico introduced draft resolution A/CONF.144/L.8 on behalf of the sponsors. The Secretary of the Congress read out revisions agreed upon during informal consultations held on the draft resolution. The representative of Mexico also made a statement.

111. At the same meeting, the Congress adopted the draft resolution as orally revised. (For the text, see chap. I, sect. C, resolution 8.)

Computer-related crimes

112. At the 12th plenary meeting, the representative of Canada introduced draft resolution A/CONF.144/L.11 on behalf of the sponsors.

113. At its 13th plenary meeting, on 6 September 1990, the Congress adopted the draft resolution. (For the text, see chap. I, sect. C, resolution 9.)

Development of United Nations criminal justice statistical surveys

114. At the 12th plenary meeting, the representative of Canada introduced draft resolution A/CONF.144/L.12 on behalf of the sponsors.

115. At the 13th plenary meeting, the representative of Canada orally revised the draft resolution.

116. At the same meeting, the Congress adopted the draft resolution as orally revised. (For the text, see chap. I, sect. C, resolution 10.)

Support for the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders

117. At the 12th plenary meeting, the representative of Brazil introduced draft resolution A/CONF.144/L.14 on behalf of the sponsors.

118. At its 13th plenary meeting, the Congress had before it a revised text of the draft resolution (A/CONF.144/L.14/Rev.1).

119. At the same meeting, the Congress adopted the revised draft resolution. (For the text, see chap. I, sect. C, resolution 11.)

Support for the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders

120. At the 12th plenary meeting, the representative of Uganda introduced draft resolution A/CONF.144/L.15 on behalf of the sponsors.

121. At its 13th plenary meeting, the Congress adopted the draft resolution. (For the text, see chap. I, sect. C, resolution 12.)

122. After the adoption of the draft resolution, statements were made by the representatives of France, Zambia, Nigeria and Ethiopia.

123. The President of the Congress also made a statement.

Measures against drug addiction

124. At the 12th plenary meeting, the representative of France introduced draft resolution A/CONF.144/L.16 on behalf of the sponsors.

125. At the 13th plenary meeting, the Secretary of the Congress read out revisions agreed upon during informal consultations held on the draft resolution.

126. At the same meeting, the Congress adopted the draft resolution as orally revised. (For the text, see chap. I, sect. C, resolution 13.)

Need to amend the Vienna Convention on Diplomatic Relations

127. At the 12th plenary meeting, the representative of Saudi Arabia introduced draft decision A/CONF.144/L.18, which read as follows:

> "The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders decides to transmit to the General Assembly for consideration at its forty-fifth session the following recommendation:
>
> > 'Serious consideration should be given to the need to amend the Vienna Convention on Diplomatic Relations, 1/ with regard to the diplomatic agent and the diplomatic bag in the light of recent crimes committed under the shelter of diplomatic immunities, in particular, drug smuggling. There is a need for a final solution to put an end to those crimes which are perpetrated under the protection of diplomatic immunities while the perpetrators get away without any punishment. Diplomatic immunity should be limited to official requirements only, and should exclude personal acts, whether by a diplomatic agent or those who are associated with him. As regards the diplomatic bag, it should be examined by X-rays so that it will not be a source of danger to the society nor a means exploited by diplomatic agents.'"

"1/ United Nations, Treaty Series, vol. 500, No. 7310.

128. At its 13th plenary meeting, on the proposal of the representative of the Federal Republic of Germany, the Congress decided to take no action on the draft decision.

Social aspects of crime prevention and criminal justice in the context of development

129. At the 13th plenary meeting, the President made a statement in which he introduced draft resolution A/CONF.144/L.17.

130. At the same meeting, the Congress adopted the draft resolution. (For the text, see chap. I, sect. C, resolution 14.)

Review of the functioning and programme of work of the United Nations in crime prevention and criminal justice

131. At its 13th plenary meeting, the Congress had before it draft resolution A/CONF.144/L.20. The Secretary of the Congress read out revisions agreed upon during informal consultations held on the draft resolution.

132. The representatives of Japan, Nigeria, the Netherlands, France, the Federal Republic of Germany and Mexico made statements. The observer of the International Criminal Police Organization also made a statement.

133. At the same meeting, the Congress adopted the draft resolution as orally revised. (For the text, see chap. I, sect. A, resolution 2.)

134. Statements after the adoption of the draft resolution were made by the representatives of Trinidad and Tobago, France, the United Kingdom, Nigeria, the Federal Republic of Germany and the Netherlands.

Implementation of the conclusions of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

135. At the 13th plenary meeting, the representative of the United Kingdom introduced draft decision A/CONF.144/L.21.

136. The representatives of Bolivia, Guinea-Bissau, Nigeria, the United Kingdom and the Netherlands made statements.

137. At the same meeting, the Congress adopted the draft decision. (For the text, see chap. I, sect. D, decision 1.)

Organized crime

138. At the 12th plenary meeting, the representative of Argentina introduced draft resolution A/CONF.144/L.9 on behalf of the sponsors.

139. At its 13th plenary meeting, the Congress had before it a revised text of the draft resolution (A/CONF.144/L.9/Rev.1). The Secretary of the Congress read out revisions agreed upon during informal consultations held on the revised draft resolution.

140. At the same meeting, the Congress adopted the revised draft resolution as further orally revised. (For the text, see chap. I, sect. C, resolution 15.)

B. Reports of Committee I

1. Criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures (topic II) (agenda item 4)

Introduction

141. At its 2nd plenary meeting, on 27 August 1990, the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders decided to allocate to Committee I agenda item 4, entitled "Criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures" (topic II).

142. The Committee considered agenda item 4 at its 6th to 11th meetings, from 30 August to 6 September. It had before it the following documents:

(a) Working paper prepared by the Secretariat on criminal justice policies in relation to the problem of imprisonment, other penal sanctions and alternative measures (A/CONF.144/10);

(b) Report of the Secretary-General on implementation of the standard minimum rules for the treatment of prisoners (A/CONF.144/11);

(c) Report of the Secretary-General on alternatives to imprisonment and the reduction of the prison population (A/CONF.144/12);

(d) Report of the Secretary-General on research on alternatives to imprisonment (A/CONF.144/13);

(e) Report of the Secretariat on computerization of the administration of criminal justice (A/CONF.144/14);

(f) Report of the Committee on Crime Prevention and Control on its eleventh session; 235/

(g) Report of the Interregional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/CONF.144/IPM/4).

General discussion

143. In his opening statement, the Director of the Social Development Division of the Centre for Social Development and Humanitarian Affairs stressed that the above topic had two functions: standard setting and management. The standard setting function extended to the draft United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) which, if adopted by the Congress, could create a basis for enhancing the use of non-custodial measures throughout the world. Also, other draft resolutions to be considered by the Committee, for example, on the management of criminal justice and development of sentencing policies and on basic principles for the treatment of prisoners, would have that function. But, at the same time, the managerial function of these draft resolutions should also be taken into account. Together with the draft resolution on computerization of criminal justice administration, all the proposed courses of action for Member States, intergovernmental and non-governmental organizations and the United Nations Secretariat could have an impact on improving the efficiency of criminal justice operations, with due regard to fair and humane treatment of prisoners. In fact, the Director concluded, the human rights concerns involved in topic II, both in the area of imprisonment and alternatives to it, should be carefully kept in mind if the international criminal justice community wished to continue the process of humanization of criminal justice initiated by the United Nations with the adoption of the first human rights instruments, the Standard Minimum Rules for the Treatment of Prisoners, in 1955.

144. Several delegations outlined developments in their criminal justice systems, especially in prison administration. Some delegates concentrated on the theoretical underpinnings and legal frameworks of their systems and on recent criminal justice reforms. Others presented in some detail the practices of their prisons, describing, for instance, the procedures for staff selection and training and the role of education and labour in the rehabilitation of offenders. Several speakers critically reviewed the situation in their countries as a basis for future planning and reforms.

145. There was agreement that imprisonment was, at the present, the prime societal response to crime. Several speakers referred to the fact that a too easy acceptance of, and reliance on, imprisonment inevitably led to prison overcrowding, which made it impossible to observe the United Nations Standard Minimum Rules for the Treatment of Prisoners. Alternative objectives of imprisonment emerged during the debate. Prison was seen as having several functions, the two main ones being punishment and the reformation of the offender, while one speaker described punishment as the main means of the rehabilitation of offenders. Although some scepticism was expressed as to the feasibility of rehabilitation, it was strongly emphasized that all that could be done in this direction should be done. The degree to which rehabilitation in a prison setting was deemed feasible varied considerably between countries.

146. There were frequent references to the number of prisoners held in custody on remand prior to trial. Again, however, there appeared to be considerable differences between countries as to the level or rate of that category of prisoners and the proportion of the total prison population which they constituted. The overcrowding of prisons, deplored by many speakers was, in some countries, caused to a large extent by the habitual practices of court officials, including prosecutors and judges, who relied heavily on this disposition in spite of the availability of other options.

147. The proportion of unconvicted prisoners in some countries was higher than that of convicted prisoners. The problem was considered to be widespread and growing. Conditions of pre-trial prisoners were often worse than those convicted, even though pre-trial prisoners had to be recognized as innocent until found guilty by a court. New ways had to be found to deal with pre-trial detainees, particularly because in many cases, the time spent in pre-trial detention went far beyond acceptable limits. Indeed, some of those pre-trial prisoners were later sentenced to measures involving short-term custody or even non-custodial alternatives. Several speakers felt that the United Nations should pay particular attention to that issue in the near future. Some ameliorative measures, such as administrative sentencing, mandating time-limits for the preliminary investigation and legal restrictions to the use of pre-trial detention, were proposed. One speaker suggested that the United Nations should also have a close look at conditions in military prisons.

148. It was emphasized that the sentiment against reliance on imprisonment was now widespread. A representative of a non-governmental organization described the deteriorating conditions in prisons in one country, wherein brutality had become common. The upholding of the Standard Minimum Rules was particularly important, especially in countries where the decline of standards through overcrowding was most marked. The situation was now one in which the Universal Declaration of Human Rights was regularly violated. It was recognized that keeping offenders in prison was neither efficient nor effective, except where the protection of society was concerned. There was an increase in minor offences with industrialization, but their perpetrators did not require imprisonment, to which they were often sentenced. A major move to arbitration and restitution to victims was in order, combined with decriminalization of minor offences; but a major distinction had to be drawn between decriminalization and non-custodial measures.

149. Most delegations referred to the desirability of the wider use of community-based measures in place of sentences of imprisonment. Many of those speakers reported that the move to a greater use of alternatives to imprisonment was gaining momentum in their countries, and that it represented, in some circumstances, a return to practices of earlier times, such as the substitution of measures of reparation, sometimes involving the offender's family to help provide such reparation to the victim rather than sentences of imprisonment. Several speakers listed a variety of measures to reduce the prison population, such as by allowing prisoners to return to society earlier than specified in the original sentence. Owing to decreasing resources allocated to prison departments in the face of the rapidly increasing prison population, it became almost impossible in some countries to feed all the prisoners, and early release of some became imperative. Some respondents had described the modalities existing in their countries in greater detail in their contributions to the report of the Secretary-General on alternatives to imprisonment and the reduction of the prison population (document A/CONF.144/12).

150. The precedents existing in customary practices of some cultures was described by a number of delegates. Conflicts could be resolved by traditional means, such as temporary banishment, restoration and recompensation. One speaker explained that imprisonment was a foreign institution introduced to his country during the colonial era. The introduction of imprisonment was contrary to the prevailing ethos and had produced disturbing social consequences. In some instances, the conditions of imprisonment were close to the level of torture, inhuman and degrading treatment, often resulting from lack of food and basic necessities.

151. One speaker referred to the obstacles put in the way of discharged prisoners obtaining employment, and that they applied even to those serving non-custodial measures and constituted violations of human rights laid down in various United Nations conventions. Another proposed the setting up of a comprehensive resettlement programme, since the conditions under which released prisoners found themselves were very difficult. They needed economic help and social support to be reintegrated into society.

152. Many speakers stressed the timeliness of the presentation of the Standard Minimum Rules for Non-custodial Measures and expressed their appreciation for the work in that field of the United Nations and its institutes. Finding appropriate non-custodial sanctions was an urgent exercise for all nations. The Tokyo Rules were vital for persons subjected to non-custodial sanctions who were vulnerable to abuse, and the very existence and promotion of the Tokyo Rules would help to increase the use of alternative, community-based measures. Rule 1 was particularly important in that it recognized national differences in their implementation, which helped maintain the confidence of the public in the criminal justice system.

153. The legal safeguards incorporated in the Tokyo Rules were repeatedly commended. There was agreement that offenders had to retain the same rights and privileges as other members of society, except for those that were restricted by the non-custodial measures.

154. The view was expressed that alternative measures had to retain an element of punitiveness to be acceptable, and be supervised by professionals. Volunteers could have only a limited role. The training of those professionals was most important. A balance had to be found between the rights and responsibilities of offenders and the security of the community and society at large. Some countries also regarded non-custodial measures as an efficient means of reducing recidivism. One country reported that in appropriate cases, non-custodial measures were applied for all kinds of offenders and offences, including cases of serious crimes.

155. One speaker reported that his country was looking at the possibility of establishing criteria for the use of alternative, community-based sanctions to deal with up to 50 per cent of the criminal cases, although community-based measures necessitated clear time-limits. The widespread use of alternatives to imprisonment could be a basis for a new ethical attitude towards offenders. A number of speakers, reporting on the most recent developments, referred to the introduction of electronic monitoring programmes. Most of them felt that it was a valuable supervision method to ensure compliance with certain conditions, such as home detention. Others recommended measures to improve the rehabilitation of offenders by such measures as tax incentives for employers hiring ex-offenders.

156. Several non-governmental organizations stated that alternative measures should not only contribute to solving problems, such as prison overcrowding or cost increases, but that they should also help to avoid long-term stigmatization. Community-based measures should respect and integrate people, treat them honestly and promote a democratic process. Women's interests should also be taken into consideration. The number of imprisoned women was growing, in particular with respect to drug-related offences in many countries. Up to now, in most countries, the system of imprisonment did not respond to the specific needs of women. Therefore, as was also recommended by a number of other speakers, special arrangements, such as dispensation for pregnant women to deliver outside prisons and care for the children of offenders, should be considered.

157. Several speakers were concerned that the introduction of a large number of alternatives to imprisonment might lead to an increase of sanctions altogether without reducing the number of persons in prison. This so-called "net-widening effect", leading to an extension of the level of control, in addition to existing penal sanctions, had to be avoided. There was also general agreement that the proportionality of a penalty in relation to an offence always had to be taken into account.

158. One representative, referring to resolution 16 of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, highlighted the role of community service in the array of alternative measures available to the sentencing authority. Another representative described the institution of the open prison and of community-based measures as a half-way stage between the closed prison of the past, with its inherent potential for the abuse of human life, and the prisonless society hoped for in the twenty-first century.

159. Several delegations referred to the role of international instruments and guidelines, such as those of the United Nations, in guiding the reform of the justice system in general, and of prisons in particular. The recent work of the Council of Europe, especially in promoting the management of criminal justice systems in a coherent and co-ordinated fashion, was described. That work had focused on a better definition of the objectives of criminal justice and its subsystems and on training the judiciary. Speakers expressed support for the central role of sentencing in the management of criminal justice and emphasized that the subject had to be kept under constant review, especially to promote coherent and consistent sentencing practices.

160. The work of the World Health Organization (WHO) in respect of acquired immunodeficiency syndrome (AIDS) in prison was described briefly. The provisional report on human immonodeficiency virus (HIV)/AIDS, in prison prepared by the WHO Global Programme on AIDS, was introduced. A draft resolution on HIV/AIDS in prison was also introduced in the Committee. Several representatives confirmed that AIDS in prison had become a major problem, while at least one country reported that at present there were no known cases of HIV there, but that prison authorities were required to remain in close contact with the national AIDS committee. It was stressed that as knowledge and experience increased, countries had to be willing to question and reassess their policies and practices in that area.

161. The International Committee of the Red Cross described its work aimed at the eradication of torture. Particular attention was given to prison visits as a means of safeguarding human rights standards for prisoners. One delegate proposed that an international year of or for prisoners would help to improve their lot, highlight their needs as well as those of prison administrations, and generate public interest.

162. The International Penal and Penitentiary Foundation presented its draft Standard Minimum Rules for the implementation of non-custodial sanctions and measures involving restriction of liberty, as its contribution to the Tokyo Rules. Some countries expressed the view that some of the provisions contained in the Foundation's draft rules, and also regional developments, should be reflected in the commentary to be prepared for the Tokyo Rules. There was general agreement that a commentary on the Rules, to be formulated on the basis of the final text, should address in greater detail legal safeguards, implementation procedures and national and regional experiences and requirements.

163. Many countries stressed their willingness to exchange ideas, knowledge and experiences in the reduction of imprisonment by alternative measures. The United Nations was requested to provide support for those efforts, in particular, through training and by organizing and funding interregional and regional seminars and other relevant activities.

Research Workshop on Alternatives to Imprisonment

164. The Research Workshop was organized by the United Nations Interregional Crime and Justice Research Institute (UNICRI) with the collaboration of the Helsinki Institute for Crime Prevention and Control (Affiliated with the United Nations), the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders, the African Institute for the Prevention and Crime and the Treatment of Offenders, the Arab Security Studies and Training Center, the Australian Institute of Criminology and the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs, United Nations Office at Vienna. Additionally, contributions were provided by the Canadian Department of Justice and by a number of individual experts.

165. The Workshop took place on 31 August 1990 as an integral part of the programme of the Congress. The proceedings were opened and closed by the Chairman of Committee I of the Congress and, on his suggestion, the discussions were moderated by Mr. Dusan Cotic, Chairman of the United Nations Committee on Crime Prevention and Control. Introductory statements were made by the Secretary-General of the Congress and by the Director of UNICRI. Considerably more than 100 representatives of national delegations, scholars and researchers attended.

166. The Workshop had before it a report of the Secretary-General on research on alternatives to imprisonment (A/CONF.144/13), which was also under the consideration of the Congress under agenda item 4, "Criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures". The report was essentially a global report synthesizing information and findings contained in the regional reports for Africa, Asia and the Pacific, the Arab countries, Europe and Latin America and the Caribbean; country reports from Canada and the United States of America; country-based case studies on home detention (Australia), release on personal recognizance (Costa Rica), work on liberty under surveillance (Hungary), probation (Japan), community service (The Netherlands), personal reparation (Nigeria), diyya (Saudi Arabia), and electronic monitoring surveillance (United States); and an international bibliography for the period 1980-1989, with a review of related literature. The regional reports, the country reports and the case studies were contained in volume I of a "Research Workshop Document" submitted to the Workshop by UNICRI. Volume II of the same document contained the literature review and international bibliography.

167. The regional and case study reports and the report on the literature were presented by the representatives of the United Nations interregional and regional institutes and other institutions involved in the preparation of the Workshop. A number of national delegations presented experiences related to legislation and administration of non-custodial sanctions in their respective countries. In addition, several community-based programmes were illustrated.

168. Participants emphasized, in general, the importance of research in that field. They underlined, in particular, that research should, on the one hand, provide systematic information on the conditions needed for the introduction and application of non-custodial sanctions. On the other hand, the role of research results in facilitating informed policy-making and sentencing decisions was stressed. Several participants called for the need for the United Nations interregional and regional institutes for crime prevention and control to assist Member States in research and the adequate utilization of research results in promoting credible and effective non-custodial sanctions. Special emphasis was placed on evaluative research and on criteria and methodologies for measuring the effectiveness of alternative sanctions.

169. The discussion also focused on trends in the development of non-custodial sanctions. In that connection, the role of the United Nations interregional and regional institutes for crime prevention and control in providing and analysing comparative information was emphasized. Comparative information derived from research should help interested countries to better assess the policy options available to them.

170. A draft resolution on principles and directions for research on non-custodial sanctions (A/CONF.144/C.1/L.1), sponsored by Argentina, Australia, Costa Rica, Finland, Hungary, Italy, Japan, Malta, Netherlands, Uganda and Yugoslavia, was presented. Discussion followed and two amendments were introduced (Canada and Venezuela). In the course of the Workshop, Canada, Cuba and Saudi Arabia joined the sponsors of the resolution. It was noted that formal action on the resolution would be taken by Committee I.

Demonstration Workshop on Computerization of Criminal Justice Information

171. The United Nations Workshop on the Computerization of Criminal Justice Information was convened within the framework of the Eighth Congress, pursuant to Economic and Social Council resolution 1989/69 and General Assembly resolution 44/72. It was organized in co-operation with the Helsinki Institute for Crime Prevention and Control affiliated with the United Nations (HEUNI).

172. The documentation for the Workshop included the report of the Secretariat on computerization of the administration of criminal justice (A/CONF.144/14), the executive summary of the Manual on Computerization in the Management of Criminal Justice (A/CONF.144/14/Add.1) and the draft outline of a Directory of Automated Criminal Justice Information systems, submitted by HEUNI.

173. The experience of some countries in the computerization of the administration of criminal justice was outlined and demonstrated during public showings of computerized applications of criminal justice operations. On that basis, three guiding principles were derived for computerization: top management responsibility for computerization projects, a top-down approach and the need to proceed in computerization "one step at a time". The participants found a useful discussion of those principles in the executive summary of the Manual, the full text of which would now be finalized and presented as a United Nations technical publication.

174. The Workshop discussed the long-term United Nations programme in the computerization of the administration of criminal justice. The elements of that programme were described as the improved exchange of information, technical assistance in training, education and the assessment of needs, and the development of guidelines. One element of the exchange of information through the United Nations, the United Nations Criminal Justice Information Network, was presented in detail by one of the Network's collaborators who also made a software demonstration of the Network special programme, prepared by the Justice Ministries of the Netherlands and Poland, in co-operation with the Helsinki Institute, with a view to propagating the Network among potential members. The Network, which was financially supported by the Research Foundation, State University of New York, United States Bureau of Justice Statistics, started its operations last year and by now had attracted the attention of a wide strata of the international criminal justice community. Several Member States, criminal justice research agencies and institutes, and private individuals had joined the network so far.

175. Several participants stressed the need for more effective technical assistance programmes in the area of computerization, both bilaterally and multilaterally, mentioning the role of the United Nations. Technical assistance projects should be well-prepared and implemented. The workshop participants discussed basic problems and solutions enabling countries to attain the objective of successful computerization of criminal justice information. The discussion continued in a follow-up, three-day session during which concrete computer applications in criminal justice were presented by representatives of the public and private sectors.

176. Finally, the Workshop discussed the draft proposals contained in decision 11/103 of the Committee on Crime Prevention and Control on the computerization of criminal justice administration (document E/AC.57/1990/8). After the discussion, the text of the draft was forwarded to Committee I for further consideration and action.

Consideration of draft resolutions

177. In the course of its deliberations on agenda item 4, Committee I considered the following draft resolutions:

(a) Draft resolution entitled "Computerization of criminal justice", contained in decision 11/103 of the Committee on Crime Prevention and Control, and amendments thereto (A/CONF.144/C.1/L.10), sponsored by Canada, Cuba, France and the United Kingdom of Great Britain and Northern Ireland;

(b) Draft resolution entitled "Management of criminal justice and development of sentencing policies", contained in decision 11/105 of the Committee on Crime Prevention and Control; 235/

(c) Draft resolution entitled "United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)", contained in decision 11/108 of the Committee on Crime Prevention and Control, and amendments thereto (A/CONF.144/C.1/L.3), sponsored by Finland, the Federal Republic of Germany, Hungary, Japan, Nepal, the Netherlands, New Zealand, the Philippines, Switzerland, the United Kingdom of Great Britain and Northern Ireland and Yugoslavia;

(d) Draft resolution entitled "Basic principles for the treatment of prisoners", contained in decision 11/115 of the Committee for Crime Prevention and Control;

(e) Draft resolution entitled "Principles and directions for research on non-custodial sanctions" (A/CONF.144/C.1/L.1), sponsored by Argentina, Australia, Costa Rica, Finland, Hungary, Italy, Japan, Malta, the Netherlands, Uganda and Yugoslavia, subsequently joined by Canada, Cuba, the Dominican Republic, Poland, Saudi Arabia and the Union of Soviet Socialist Republics;

(f) Draft resolution entitled "Crime prevention and education" (A/CONF.144/C.1/L.2), sponsored by Australia, Austria, Barbados, Bulgaria, the Byelorussian Soviet Socialist Republic, Canada, China, Cuba, Egypt, Hungary, Indonesia, Italy, Nigeria, Uganda, the Ukrainian Soviet Socialist Republic, the Union of Soviet Socialist Republics and Yugoslavia, subsequently joined by Argentina, Jordan, Kenya, the Sudan and the United Republic of Tanzania;

(g) Draft resolution entitled "Management of criminal justice and development of sentencing policies" (A/CONF.144/C.1/L.6), sponsored by the Netherlands and the United Kingdom of Great Britain and Northern Ireland;

(h) Draft resolution entitled "Pre-trial detention" (A/CONF.144/C.1/L.7), sponsored by Austria, Belgium, the Byelorussian Soviet Socialist Republic, Canada, Finland, the Federal Republic of Germany, Greece, Hungary, the Netherlands, New Zealand, Spain, Switzerland, the Ukrainian Soviet Socialist Republic, the United Republic of Tanzania, Yugoslavia and Zambia, subsequently joined by Bolivia, Chile, Colombia, Costa Rica and Panama;

(i) Draft resolution entitled "Infection with human immunodeficiency (HIV) virus and acquired immunodeficiency syndrome (AIDS) in prison" (A/CONF.144/C.1/L.8), sponsored by Canada, the Netherlands, Sweden, the United Kingdom of Great Britain and Northern Ireland, Uruguay and Yugoslavia, subsequently joined by Portugal and Switzerland;

(j) Draft resolution entitled "Assessment for the release of life sentence prisoners" (A/CONF.144/C.1/L.9), sponsored by Colombia, Italy and Zimbabwe, subsequently joined by Pakistan;

(k) Draft resolution entitled "Interregional co-operation in prison management and community-based sanctions" (A/CONF.144/C.1/L.11), sponsored by Argentina, Australia, Belgium, Canada, Costa Rica, Czechoslovakia, the Dominican Republic, Finland, France, India, Italy, Japan, Malta, Mauritius, Nicaragua, Panama, Poland, Portugal, Spain, the Union of Soviet Socialist Republics and Zimbabwe;

(l) Draft resolution entitled "International year of prisoners" (A/CONF.144/C.1/L.12), sponsored by Venezuela;

(m) Draft resolution entitled "Activities of the International Committee of the Red Cross with regard to detention" (A/CONF.144/C.1/L.13), sponsored by Australia, Austria, the Congo, France, Hungary, Italy, Portugal, Sweden, Switzerland, the United Kingdom of Great Britain and Northern Ireland, Yugoslavia and Zimbabwe.

Computerization of criminal justice

178. At its 9th meeting, on 4 September, the Committee considered the draft resolution contained in decision 11/103 of the Committee on Crime Prevention and Control and the amendments thereto (A/CONF.144/C.1/L.10). The Committee adopted the draft resolution as amended.

United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)

179. Also at its 9th meeting, the Committee considered the draft resolution contained in decison 11/108 of the Committee on Crime Prevention and Control and the amendments thereto (A/CONF.144/C.1/L.3). Statements were made by the representative of the secretariat and the representative of the Netherlands. The Committee adopted the draft resolution as amended.

Basic principles for the treatment of prisoners

180. At the same meeting, the Committee considered the draft resolution contained in decision 11/115 of the Committee on Crime Prevention and Control. The Committee adopted the draft resolution.

Crime prevention and education

181. At the same meeting, the representative of Yugoslavia introduced draft resolution A/CONF.144/C.1/L.2 on behalf of the sponsors. The Committee adopted the draft resolution as orally revised.

182. The draft resolution read as follows:

"Crime prevention and education

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Recalling the Caracas Declaration, adopted by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which emphasized that crime impairs development and undermines people's spiritual and material well-being, compromises human dignity and creates a climate of fear and violence,

"Recalling also the Milan Plan of Action, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which affirmed that crime is a major problem of national and international dimensions, and that it hampers the political, economic, social and cultural development of peoples and threatens human rights, fundamental freedoms, and peace, stability and security,

"Calling attention to the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, adopted by the Seventh Congress, which stipulate in paragraph 4 that new directions and approaches to crime prevention and criminal justice should be explored at the national and international levels,

"Recognizing that existing approaches to crime prevention and control have not always proved effective,

"Noting the views expressed at previous Congresses concerning the need for collaboration between criminal justice agencies and educational authorities in the development of crime prevention programmes,

"Mindful that education has a potential role to play in ameliorating the conditions that give rise to crime and to the consequences of criminality,

"Determined that education should play an important role in crime prevention and criminal justice through such means as education for the general awareness of the public, education of the young for crime prevention, education aimed at the total personal development of prisoners and other offenders, and continuing education of the criminal justice personnel,

"Aware that interdisciplinary education programmes and policies may be an effective strategy for both criminal justice education and crime prevention,

"Also aware that, although some countries have achieved considerable progress in their educational policies, education as an approach to crime prevention and criminal justice has not yet been systematically explored in many countries,

"Calling attention to Economic and Social Council resolutions 1990/20 of 24 May 1990 on prison education and 1990/24 of the same date on education, training and public awareness in the field of crime prevention,

"Calling attention also to the fact that the General Assembly, in its resolution 44/127 of 15 December 1989, designated the year 1990 as International Literacy Year, the aim of which is to eradicate illiteracy in the world,

"1. Invites Member States to review existing practices of education both in respect of offenders and personnel in crime prevention and criminal justice;

"2. Also invites Member States to involve educational experts, as appropriate, in crime prevention and criminal justice and to encourage related educational research and publications;

"3. Further invites Member States to advise criminal justice staff periodically, through professional journals or other publications and records, of developments relevant to their area of work;

"4. Invites Member States to encourage collaboration between criminal justice agencies and educational authorities in the development of crime prevention programmes and to encourage educational authorities to give increased attention to ethical and socialization programmes in their curricula and to other relevant measures referred to in the Inventory of comprehensive crime prevention measures submitted to the Eighth Congress (A/CONF.144/9);

"5. Requests the Secretary-General to report to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on implementation of the present resolution and of Economic and Social Council resolutions 1990/20 on prison education and 1990/24 on education, training and public awareness in the field of crime prevention;

"6. Also requests the Secretary-General to explore the possibility of the increased use of education in crime prevention and criminal justice with a view to preparing a study on the relationship among crime, education and development and of presenting the first results in a progress report to be submitted to the Committee on Crime Prevention and Control;

"7. Calls upon the United Nations Educational, Scientific and Cultural Organization, the United Nations Development Programme and other agencies and entities of the United Nations system, and relevant intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council to become actively involved in enhancing education as a means to improve the efficiency of crime prevention and criminal justice;

"8. Requests the Secretary-General, through the Department of Public Information in co-operation with other offices and national correspondents in the field of crime prevention and control, to continue to develop and maintain a list of criminal justice journals and relevant public media programmes, with a view to the dissemination of United Nations information, in the field of criminal justice and crime prevention;

"9. Also requests the Secretary-General to bring to the attention of relevant national criminal justice and educational authorities those United Nations standards, norms and other selected recommendations with the view to the more widespread and systematic dissemination of them in relevant training and educational programmes;

"10. Further requests the Secretary-General to consider the preparation of a manual on enhancing the role of education in United Nations criminal justice policies in under-graduate and post-graduate courses, and in the training of criminal justice personnel, taking into account the recommendations made by the Economic and Social Council in its resolutions 1990/20 and 1990/24;

"11. Invites the relevant intergovernmental and non-governmental organizations to contribute substantively and logistically to the preparation of such a manual and its subsequent dissemination and application;

"12. Requests the Secretary-General to develop technical co-operation programmes, including interregional advisory services, with the view to enhancing the role of education in the operation of crime prevention and criminal justice, taking into account the interdisciplinary nature of such co-operation programmes;

"13. Urges the United Nations regional and interregional institutes for the prevention of crime and the treatment of offenders to include educational issues in their research and training programmes;

"14. Requests the Committee on Crime Prevention and Control to keep the matter under review;

"15. Recommends that the Committee on Crime Prevention and Control request the Ninth Congress and its preparatory meetings further to consider the role of education with a view to facilitating educational approaches in crime prevention and criminal justice."

Principles and directions for research on non-custodial sanctions

183. At the same meeting, the representative of Yugoslavia introduced draft resolution A/CONF.144/C.1/L.1 on behalf of the sponsors. The Committee adopted the draft resolution as orally revised.

Pre-trial detention

184. At the same meeting, the representative of Austria introduced draft resolution A/CONF.144/C.1/L.7 on behalf of the sponsors. The Committee adopted the draft resolution as orally revised.

Infection with human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) in prison

185. At the same meeting, the representative of the United Kingdom of Great Britain and Northern Ireland introduced draft resolution A/CONF.144/C.1/L.8 on behalf of the sponsors. The Committee adopted the draft resolution.

Management of criminal justice and development of sentencing policies

186. At the same meeting, the representative of the United Kingdom introduced draft resolution A/CONF.144/C.1/L.6 on behalf of the sponsors.

187. At its 11th meeting, on 6 September, the Committee adopted draft resolution A/CONF.144/C.1/L.6 as orally revised.

188. At its 10th meeting, on 5 September, the Committee considered the draft resolution contained in decision 11/105 of the Committee on Crime Prevention and Control.

189. At its 11th meeting, the Committee decided to take no action on the draft resolution, in view of its adoption of draft resolution A/CONF.144/C.1/L.6.

Assessment for the release of life sentence prisoners

190. Also at the 11th meeting, the representative of Italy introduced draft resolution A/CONF.144/C.1/L.9 on behalf of the sponsors. The Committee adopted the draft resolution as orally revised.

International co-operation in prison management and community-based sanctions

191. At the same meeting, the representative of Costa Rica introduced draft resolution A/CONF.144/C.1/L.11 on behalf of the sponsors. The representatives of Canada and Italy made statements. The Committee adopted the draft resolution as orally revised.

International year of prisoners

192. At the same meeting, the representative of Venezuela introduced draft resolution A/CONF.144/C.1/L.12. The Committee adopted the draft resolution as orally revised.

Activities of the International Committee of the Red Cross with regard to detention

193. At the same meeting, the representative of Switzerland introduced draft resolution A/CONF.144/C.1/L.13 on behalf of the sponsors. The Committee adopted the draft resolution as orally amended.

2. Prevention of delinquency, juvenile justice and the protection of the young: policy approaches and directions (topic IV) (agenda item 6)

Introduction

194. At its 2nd plenary meeting, on 27 August 1990, the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders decided to allocate to Committee I, agenda item 6, entitled "Prevention of delinquency, juvenile justice and the protection of the young: policy approaches and directions" (topic IV).

195. The Committee considered agenda item 6 at its 1st to 8th meetings, from 27 August to 4 September. It had before it the following documents:

(a) Report of the Secretary-General on the implementation of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (A/CONF.144/4);

(b) Working paper prepared by the Secretariat on the prevention of delinquency, juvenile justice and the protection of the young: policy approaches and directions (A/CONF.144/16);

(c) Report of the Secretary-General on domestic violence (A/CONF.144/17);

(d) Report of the Committee on Crime Prevention and Control on its eleventh session; 235/

(e) Report of the Interregional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/CONF.144/IPM.3).

General discussion

196. Item 6 was introduced by the Director of the Social Development Division of the Centre for Social Development and Humanitarian Affairs, United Nations Office at Vienna, who stressed that young persons constituted the largest population of offenders and victims; they were particularly vulnerable to adverse influences and victimization and to becoming entrapped in criminogenic situations. They came into conflict with the law more frequently than any other age group, and their initial lapses into crime occurred because of numerous factors. Non-conformist social stances, conduct and behaviour were often expressions of youthful uncertainty, while transgression was an inevitable passage to conformity.

197. That approach had guided the work of the United Nations in that field, further to the adoption of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1985. The two additional, complementary international instruments, namely, the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, governed a full range of critical issues for young persons in trouble. Their approach, which was both

multisectoral and multidisciplinary, emphasized early protective and preventive intervention modalities for all young persons and focused special attention on situations of social risk.

198. Overwhelming support was expressed for the principles embodied in the two new draft international instruments. It was noted that, along with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), they would enlarge the normative framework of the juvenile justice field, agreed upon by the world's crime prevention and criminal justice community, to be drawn upon by countries wishing to adopt concerted strategies towards that end.

199. The draft United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) were deemed to be a remarkable achievement. Their essential features were their focus on the early socialization of children or their "child-centred" orientation. They were considered to be a progressive instrument which met the specific demands of effective delinquency prevention strategy.

200. With those three international instruments, the world community would have secured suitable protection for children in justice systems in prevention (at the pre-conflict stage), and in processing (at the in-conflict stage), and would have safeguarded, to the extent possible, the rights of children in detention.

201. The adoption by the General Assembly of the Convention on the Rights of the Child was considered to be an important pillar for strengthening current juvenile justice initiatives. Specific provisions of the Convention were seen as having a great potential for contributing to the prevention of delinquency. Similarly, the new draft instruments, along with the Beijing Rules, would undoubtedly promote and help to ensure the protection of children's rights in juvenile justice administration.

202. The focus, approach and direction of the United Nations juvenile justice programme received wide support and praise. The view was expressed that the increasing role and responsibilities under the programme, as mandated by legislative bodies, called for the strengthening of its activities.

203. The prevention of juvenile delinquency and the promotion and ensuring of juvenile justice were identified as important tasks to be pursued by the world community. Major reforms carried out in a number of countries were reported to have been directly inspired by the Beijing Rules. New legislation enacted paralleled the text and reflected the spirit of those Rules.

204. It was also reported that juvenile justice systems in various countries had undergone careful scrutiny in an effort to bring them in line with the Beijing Rules. The strategies for the prevention of delinquency and for the protection of juveniles in custodial detention, outlined in the new complementary instruments, were already being examined with a view to their adoption. Where major reforms had taken place in conformity with the principles of the Beijing Rules, the provisions of the new instruments could be more easily integrated. In particular, training activities at the national, regional and interregional levels could draw on those standards and acquaint personnel with desirable international juvenile justice norms and objectives to be pursued in law, policy and practice.

205. Those measures were reported as having a noticeable impact on the incidence of youthful offending, pointing a possible relationship between an enhanced quality of juvenile justice and a reduced incidence of youthful offending.

206. In a number of countries, juvenile justice systems and strategies for the prevention of juvenile delinquency were being created, developed, strengthened and reformed, and the guidance of the United Nations was sought in the context of standard-setting activities in that field. Direct project assistance could furnish the means to implement the new instruments in actual practice. The training of juvenile justice personnel was identified as a major area that required immediate attention.

207. The role of the police in community-based delinquency prevention measures, the diversion of juveniles from formal justice processes and referral of them to a viable prevention infrastructure of professionals, services and facilities were considered of special yet neglected importance. The interaction between the young and law enforcement officers, as promising partners in delinquency prevention, had to be recognized and promoted.

208. The importance of the participation of youth in measures for the prevention of delinquency was highlighted. In line with the provisions of the Riyadh Guidelines it was stressed, in particular, that the alienation of the young could be reduced by involving them, to the extent possible, in policy-making and decision-making. Reference was made, in that connection, to new projects for delinquency prevention that were being undertaken in some countries.

209. In the ensuing discussion on the general principles and specific provisions of the new instruments, some divergent views were expressed. For example, the controlled "mixing" of juveniles with selected adults in detention facilities was seen both as a breach of the overriding principle of separation of those age groups in juvenile justice practices and also as a practical consideration for some countries that should be taken into account in programming.

210. One position advocated was a restrictive approach by the mass media in its presentation of violence, sex, pornography and drug-taking behaviour. Another view expressed a more liberal approach, emphasizing that the power of the global mass media was such that it made control difficult. Nevertheless, there was agreement that the influence of the mass media was strong enough to justify exerting control over portraying those factors to a youthful audience.

211. Reference was made to the importance of supporting and assisting developing countries that were suffering from unfavourable economic conditions and that were thus impaired in their capacity to cope effectively with large youthful populations, tackle social problems and mount effective strategies and programmes for delinquency prevention. Particularly serious in that respect was the problem of street children, especially in many urban areas of the developing world. Specific projects and programmes were needed with the support of both the United Nations Children's Fund (UNICEF) and the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs.

212. Efforts being made at the national level to consolidate information on risk situations, for example in cases of missing children and runaways, were considered to be of utmost importance. In that connection it was strongly recommended that an international networking system be set up in co-operation with the United Nations. That network should involve agencies, including law enforcement agencies, which dealt in their various capacities with risk situations, and in such activities as providing direct assistance, referral and information, and tracing and recovering displaced children.

213. It was acknowledged that the incarceration of children was a fairly widespread practice. It was generally agreed that conditions of imprisonment did not promote the desirable goals of rehabilitation and social re-integration and that detention facilities were, in fact, counter-productive. Deprivation of liberty as a substitute for foster care or as a "protective measure" produced effects especially detrimental to the developmental process of the young. It was seen as the least effective response to street children. In that connection, with reference to the situations of social risk, in particular, the problem of street children, the Secretariat was called upon to intensify its work, in consultation with the organizations and experts concerned with children's rights, and to collaborate more closely with agencies in order to undertake joint endeavours, including projects, designed to improve the situation of children in difficult circumstances.

214. The exploitation of children, by their instrumental use by adults in criminal activities, was seen as an alarming and increasingly serious phenomenon, both qualitatively and quantitatively, which was acculturating children into criminal life-styles, compromising their developmental processes and prejudicing their futures at an early age.

215. The substantial involvement of the young in drug consumption and distribution was a source of grave concern and an area for much needed work in prevention policy. Young persons were targets of the illicit drug trade. Organized crime syndicates engaged the young in the illicit drug trafficking and distribution networks, also taking advantage of their vulnerability as a consumer market. Strategies to reduce the demand for drugs by youth, involving many specialized types and forms of intervention at all levels, and involving a co-ordinated multidisciplinary approach, were urgently needed. It was essential that primary attention be given to early prevention policies, programming and intervention.

216. Alcohol abuse among young persons was perceived to be another risk situation that was not being appropriately addressed. The youthful perception of drug and alcohol consumption and drug-taking behaviour was apparently not being properly understood and tackled. In both respects, it was emphasized that the approaches being taken and the information being disseminated were neither adequate nor effective.

217. Concern was expressed about the seemingly increasing incidence of violence and other serious offences committed by young persons, especially youth gangs, which pointed to the need for future cross-cultural dialogue and agreement on terms of reference to address that difficult question. It was felt that that area of work would chart the work of the United Nations in the juvenile justice field for the next few years. Attention had to be focused on the problem of serious and persistent young offenders as a matter of priority. There was a need for research, studies and collaborative action on the subject, with a view to devising countermeasures in the face of existing inadequacies and failures in the specialized rehabilitation and re-integration of such offenders.

218. Attention was drawn to the forthcoming World Summit for Children, to be held in New York on 29 and 30 September 1990, sponsored by the United Nations Children's Fund. It was agreed that the Riyadh Guidelines should be publicized as widely as possible in connection with the Summit.

219. In the course of the discussion, statements were made on the problem of domestic violence. Discussion focused on the efforts being made to explore,

develop and implement policies, measures and strategies, within and outside of criminal justice systems, to prevent domestic violence against and affecting young persons and to ensure the fair treatment of the victims of that type of offence.

220. It was noted that domestic violence was a serious problem in most countries, developing and developed alike. It knew no economic, social, cultural or religious boundaries and had particularly pernicious effects on the young - both those who were the direct victims of abuse and those who witnessed violence in the home. The correlation of such abuse with the development of a violent life-style, both within the family and directed against society, underlined the importance of preventive action. Domestic violence had deleterious physical and psychological effects on family members, especially those who were most vulnerable, and threatened the very foundations of the family as a social institution, since it usually represented a continuing pattern rather than isolated instances of abuse. For too long, the problem had been relegated to the private domain. Urgent measures were called for to curtail it, whatever its causes and forms.

221. Much more information was needed concerning the factors and processes involved in domestic violence and about promising approaches to deal with the phenomenon. The steps taken against family violence in some countries were mentioned, as was the need for evaluation of the different treatment options. Longitudinal studies and critical analyses of various means of social control were required, including disciplinary practices legitimating the use of force and those exempting from punishment acts presumed not to pose a danger to life. Not only legislative reforms but also effective law enforcement were necessary. The criminal justice system had an important role to fulfil in curtailing domestic violence by offering justice and protection to its victims and mandatory treatment for offenders. A warning, however, was sounded against the rigid application of adversarial and punitive procedures which often exacerbated the problem. Mandatory arrest policies served as a deterrent but there was also need for alternative approaches drawing on techniques of conflict resolution to foster healthy homes and the survival of the family unit.

222. There was agreement on the need for multi-faceted and multidisciplinary action, including educational and media attention, to promote attitudinal change and counter the reliance on violence. Further United Nations work in that area was called for, particularly by the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and in connection with activities undertaken for the International Year of the Family (1994), which was proclaimed by the General Assembly. This should include the development of practical guidelines or a manual to help in the implementation of appropriate measures, taking into account the cultural context and comparative experience whose exchange was an important part of international co-operation in this and related areas.

Consideration of draft resolutions

223. In the course of its deliberations on agenda item 6, Committee I considered the following draft resolutions:

(a) Draft resolution entitled "United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)", contained in decision 11/117 of the Committee on Crime Prevention and Control; 235/

(b) Draft resolution entitled "United Nations Rules for the Protection of Juveniles Deprived of their Liberty", contained in decision 11/118 of the Committee on Crime Prevention and Control;

(c) Draft resolution entitled "Domestic violence" (A/CONF.144/C.1/L.4), sponsored by Australia, Canada, Finland, Israel, Mexico, the Netherlands, New Zealand, Nigeria, the Philippines, Sierra Leone, Sweden, the United Kingdom of Great Britain and Northern Ireland, Yugoslavia and Zimbabwe, subsequently joined by France;

(d) Draft resolution entitled "Instrumental use of children in criminal activities" (A/CONF.144/L.5), sponsored by Argentina, China, the Congo, the Federal Republic of Germany, Ireland, Italy, the Libyan Arab Jamahiriya, Mexico, Panama, the Philippines, Saudi Arabia, Sierra Leone, Spain, Switzerland and Zambia.

United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)

224. At its 7th meeting, the Committee considered the draft resolution contained in decision 11/117 of the Committee on Crime Prevention and Control. The Committee adopted the draft resolution.

United Nations Rules for the Protection of Juveniles Deprived of their Liberty

225. At the same meeting, the Committee considered the draft resolution contained in decision 11/118 of the Committee on Crime Prevention and Control. The Committee adopted the draft resolution.

Domestic violence

226. At the 7th meeting, the representative of Canada introduced draft resolution A/CONF.144/C.1/L.4.

227. At its 8th meeting, the Committee adopted the draft resolution as orally revised.

Instrumental use of children in criminal activities

228. At the 8th meeting, the representative of Italy introduced draft resolution A/CONF.144/C.1/L.5 on behalf of the sponsors. The Committee adopted the draft resolution as orally revised.

3. Action taken by the Congress

229. At the 14th plenary meeting, on 7 September, the Rapporteur of Committee I introduced its reports on agenda item 4 (A/CONF.144/24 and Add.1) and agenda item 6 (A/CONF.144/26 and Add.1).

230. At the same meeting, the Congress adopted draft resolutions I, II and III recommended under agenda item 4. (For the texts of the resolutions, see chap. I, sect. A, resolutions 3 to 5.)

231. On the proposal of the representative of Yugoslavia, the Congress took no action on draft resolution IV, entitled "Crime prevention and education" (see para. 182 above), in light of the adoption of resolution 14 (see chap. I, sect. C above) and in view of the fact that the sponsors would submit the text to the Third Committee of the General Assembly at its forty-fifth session.

232. The Congress also adopted the other eight draft resolutions recommended under agenda item 4. (For the texts of the resolutions, see chap. I, sect. C, resolutions 16 to 23.)

233. Before the adoption of draft resolution XI, entitled "International year of rehabilitation of offenders", statements were made by the representatives of France, the Union of Soviet Socialist Republics, Barbados and Israel.

234. In regard to draft resolution XII, entitled "Activities of the International Committee of the Red Cross with regard to detention", the representative of Turkey stated that, had a vote been taken on the draft resolution, his delegation would have voted against it, and he requested that note be taken of that reservation.

235. Also at the same meeting, the Congress adopted the four draft resolutions recommended under agenda item 6. (For the texts of the resolutions, see chap. I, sect. A, resolutions 6 to 9.)

236. Before the adoption of draft resolution I, entitled "United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)", the representative of the Federal Republic of Germany proposed oral revisions to the text, which were accepted.

237. A statement was made by the representative of Spain before the adoption of draft resolution III, entitled "Domestic violence". The representative of Pakistan made a statement after the adoption of the draft resolution.

C. Reports of Committee II

1. Effective national and international action against: (a) Organized crime; (b) Terrorist criminal activities (topic III) (agenda item 5)

Introduction

238. At its 1st plenary meeting, on 27 August 1990, the Congress, in accordance with Economic and Social Council resolution 1987/49, allocated to Committee II agenda item 5, entitled "Effective national and international action against: (a) Organized crime; (b) Terrorist criminal activities" (topic III).

239. The Committee considered the item at its 1st to 5th and at its 8th and 9th meetings, from 27 August to 30 August and 4 September 1990.

240. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General on proposals for concerted international action against forms of crime identified in the Milan Plan of Action (A/CONF.144/7);

(b) Working paper prepared by the Secretariat on effective national and international action against: (a) organized crime; (b) terrorist criminal activities (A/CONF.144/15);

(c) Report of the Committee on Crime Prevention and Control on its eleventh session; 235/

(d) Report of the International Law Commission on the work of its forty-second session in regard to the draft Code of Crimes against the Peace and Security of Mankind (A/CN.4/L.447/Add.1).

241. Statements were made by 33 States, 1 intergovernmental organization and 4 non-governmental organizations in the general discussion on the item. A statement was also made by a representative of the United Nations Legal Office.

General discussion

242. The Executive Secretary of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders introduced item 5 of the agenda, "Effective national and international action against: (a) organized crime; (b) terrorist criminal activities". He underlined the significance that the three model treaties and the two sets of recommendations would have, if approved by the Congress, as a basis upon which international co-operation and national action commensurate to the present challenges could be developed. To be effective, the response had to be global in character, with appropriate co-ordination at all levels.

243. The Executive Secretary also directed the attention of the delegates to two important initiatives which the Committee was expected to consider, namely, the

codification of international criminal law and the establishment of an international criminal court. Although they were not new, they were now being approached in a more practical manner. That could help to overcome some of the inherent difficulties that had plagued those subjects in the past. Reservations, however, existed and were quite understandable. They should be carefully examined, particularly since all States seemed to agree that international co-operation was the only way to meet the challenge.

244. The Executive Secretary also indicated that a most alarming development was the insidious penetration of legitimate business by organized crime in order to invest the proceeds of crime, to establish a clean façade for criminal operations and to reduce risk by diversifying investments. In order to counteract that trend it was necessary to devise a variety of measures to effectively prevent such infiltrations.

245. The pressing need for more and better international co-operation was recognized by all participants during the general debate. In the opinion of many, the three draft models before the Committee represented an important step in the directions of establishing a firm foundation for global co-operation. The models were the outcome of a laborious process of revision and reformulation that had been carried out for more than three years. The original versions had undergone constant refinement at the hands of numerous individual experts. The views of non-governmental organizations had also been solicited and had been incorporated in the text. In addition, the draft models had been examined by the five regional preparatory meetings, the comments of which had also been integrated in them. Finally, the Committee on Crime Prevention and Control had examined them at its tenth and eleventh sessions, with the endorsement of the Economic and Social Council. Most delegations therefore felt that the three draft models should be approved in their present version by the Eighth Congress. A re-opening of the debate at that late date was not likely to improve the texts, but would merely lead to a repetition of arguments and points of view which had already been expressed during the last three years. The present formulations were the result of a broad consensus which took into account, as far as humanly possible, different legal traditions and practices. The models were in no way binding, but were meant to be used as a basis on which bilateral negotiations could be conducted, if States interested in establishing mutual arrangements so desired. Any further refinements should be made during such negotiations.

246. Referring specifically to the draft model treaty on extradition, several delegations wanted to make clear that the term "sentence" in article 1 was to be understood to include imprisonment or any other form of deprivation of liberty, as indicated by the wording of article 2, paragraph 1 of the draft model. Similarly, the same delegations underlined that the intent of the draft model on mutual assistance in criminal matters was that States, when executing requests for assistance, should provide the widest possible measure of assistance compatible with their domestic law or practice. In case of doubt, a requested State should be encouraged to comply with the request.

247. With reference to decision 11/111 of the Committee on Crime Prevention and Control, relating to terrorist criminal activities, many delegations felt recommendations, in particular those dealing with the establishment of an international criminal court, the codification of international criminal law, and the drafting of an international convention on crime prevention, were problematic. The idea of an international criminal court required still further elaboration, in

view of the large number of very serious difficulties that the project presented. Too many questions concerning such issues as composition, jurisdiction, penal and procedural matters and the carrying out of sentences would have to be answered and the corresponding problems solved before such a project could become a reality. Difficulties also arose due to the wide legal and political differences among States and the constitutional problems that would arise in many countries. In regard to that question, the question of codification and the suggested new international convention, it was thought that it would be more fruitful to focus limited resources on more urgent and realistic goals.

248. Many delegations, however, believed that exploring the possibility of establishing such a court was a worthy enterprise which should not be discouraged, particularly since such exploration, and support from the Congress, did not preclude the formulation and adoption of immediate and practical measures aimed at controlling transnational criminality and denying the perpetrators the possibility of escaping into safe havens. Furthermore, very recent General Assembly resolutions endorsed that idea, a fact that indicated the existence of a general consensus concerning the desirability of such an institution.

249. In that connection, some delegations stressed that the rapid increase in the number of independent countries, coupled with a true internationalization of criminal activities, had created the need for new international institutions which could introduce a measure of order and enhance the effectiveness of crime prevention efforts. In the past, a few States had performed together whatever policing actions were deemed necessary. That activity, however, took place on an ad hoc basis and was never institutionalized, since it could not be foreseen that international crime would grow and become chronic. But the world in fact changed, the hegemony of a few States was replaced by the sovereignty of all countries within a context of full equality among States. Consequently, the need for order gave rise to a need for institutionalization of the relations of sovereign and independent countries in all areas, including, inevitably, relations in the area of criminal law. The establishment of an international criminal court and the codification of international criminal law were steps in the direction of a functioning international order. In fact, a considerable body of international criminal law had been developed in recent decades. Its systematization was the next logical step.

250. Other delegations believed that an international criminal court system would be an integral part of a general system of international security. Instead of becoming operational on a world-wide basis, it could start at the regional or even subregional level, to be gradually integrated into a global system. Although it was true that the creation of such an institution necessitated more flexible interpretations of certain traditional concepts, an international criminal court would be a realistic instrument for the practical protection of the sovereignty of States.

251. In that respect, the Secretary of the International Law Commission informed the Committee of the results of the consideration by the Commission of the question of the creation of an international criminal court. At its forty-second session, the Commission had undertaken an examination of the issue in response to a specific request by the General Assembly in resolution 44/39 of 4 December 1989. In that resolution, the Commission was requested to address the question of the establishment of an international criminal court or other international criminal trial mechanisms with jurisdiction over persons alleged to have committed crimes

which could be covered under the draft code of crimes against the peace and security of mankind, including persons engaged in illicit trafficking in narcotic drugs across national frontiers.

252. The Commission noted that recent developments in international relations and international law were contributing to making the establishment of an international court more feasible than in the past, although it was also true that, in the view of some States, the time was not ripe for such an undertaking. But international crime had achieved such wide dimensions that it could endanger the very existence of States and seriously disturb international peaceful relations. Accordingly, the examination of the question had reflected a broad agreement, in principle, on the desirability of establishing a permanent international criminal court in relationship with the United Nations system, although different views were expressed as to the structure and scope of jurisdiction of such a court. The Commission outlined three possible models of the court, varying mainly with respect to its competence and jurisdiction. The main conclusion was, however, that the establishment of an international court would be a progressive step in developing international law and strengthening the rule of law and be successful only if it was widely supported by the international community.

253. The consolidation of the proposed instruments into a new international convention also presented difficulties to some delegations. Only if most countries were willing to re-examine some deeply entrenched legal procedures, and to recognize that their own traditional way of doing things was not necessarily the best or most effective approach to the problems in question, would the concepts of multilateral extradition and mutual assistance conventions become a reality. Since that was not a reasonable prospect in the foreseeable future, it was better to concentrate on practical tasks that would undoubtedly receive universal support.

254. Addressing themselves more specifically to the elements of the item, many participants underlined the danger that organized crime represented for economic, political and social institutions. In fact, its criminal undertakings, in particular illicit drug trafficking, discouraged domestic and foreign investments and adversely affected the daily flow of economic activities, undermining economic growth as well as political and social stability. In some cases, organized crime had already become a state within the state, running its own banking institutions and a full-fledged parallel economy occasionally stronger than the one of the host country, possessing tribunals which settled conflicts and meted out punishment, and even organizing international conferences with sister organizations from other countries.

255. Organized crime debilitated development efforts in that scarce resources had to be dissipated in efforts to bring under control its criminal activities. Moreover, the widespread corruption that often accompanied those activities effectively weakened the commitment of the citizenry to the sacrifices demanded by development policies, and seriously impaired the rational decision-making process required by public administration.

256. The very nature of organized crime, the international dimensions it had acquired in recent years and the degree of managerial and material sophistication and entrepreneurial ingenuity attained seemed to effectively preclude a purely domestic solution. Only a coupling of domestic legislative action and administrative reform with co-ordinated international action could cope with transnational organized crime in general, and with its most dangerous undertaking, illicit drug trafficking, in particular.

257. Some delegations were of the opinion that the illicit drug trafficking problem had to be approached taking both the supply and the demand sides of the equation into account. To concentrate on the supply side, as some countries tended to do, inevitably led to an over-emphasis on purely repressive policies, which were bound to fail since they were based on an insufficient picture of reality. Furthermore, an analysis of the supply had to take into consideration the issues of socio-economic development and the current crisis provoked by excessive external indebtedness.

258. Several delegations focused on drug trafficking in the context of development and on its economic implications. They called for co-operation and financial assistance for the producer countries, stressing the need for the consumer countries to take the necessary action to help put an end to drug consumption and drug trafficking.

259. Other delegations indicated that the opening of borders and the reduction of domestic repression resulting from a rapid process of democratization had provoked the emergence of criminal organizations dedicated, among other things, to illicit drug trafficking. That was an unfortunate side-effect of growing freedom. Those emerging organizations had rapidly established commercial and co-operative relations with their foreign counterparts, from which they were starting to copy violent and other methods.

260. In general, the financial aspects of organized crime were among the most alarming. The volume of transactions generated by illicit drug trafficking was, in itself, an economic menace for many countries, particularly developing ones. Accordingly, there was an urgent need for new legislation that would effectively cope with the attempts to launder the proceeds of crime. It was important to devise measures for following the money trail left by the monetary transactions carried out by organized crime. Crime prevention personnel had to learn to utilize the available data generated by banking operations, tax declarations, acquisition and sale of assets, and other similar records, ensuring none the less the protection of the confidentiality of the private affairs of law-abiding citizens. For that purpose, the practice of following the money trail should be kept under judicial supervision.

261. In relation to the second component of the item, terrorist criminal activities, delegations were unanimous in their repudiation of such activities. Their impact upon social and political stability was deleterious, and their material and psychological cost was elevated. Terrorism could not, under any circumstances, be accepted as a valid means to obtain political changes. In fact, for some delegations it was obvious that terrorism should be removed from the category of political offences and considered exclusively as an aggravated common crime. That reclassification of terrorist activities should be reflected in the practice of extradition.

262. Some delegations referred to the need for the United Nations to adopt a definition of international terrorism that would place in a different category the legitimate acts carried out by national liberation movements in their just struggle for independence and self-determination, in accordance with the precedents established in various resolutions adopted by the General Assembly on that topic. Other delegations pointed to the need to convene, under the auspices of the United Nations, an international conference to define international terrorism.

263. Other delegations felt that there was no point in attempting to define terrorism, particularly since international forums had tried to formulate such a definition for decades without success. It was important to promote global international action against such practices, including State terrorism, a phenomenon that could not be ignored by the international community. It would be more fruitful to determine the basic constitutive elements of terrorism.

264. Many delegations underlined the need for the ratification of existing conventions and for the enforcement of their clauses. In addition, more bilateral and multilateral co-operation was indispensable. The root causes of terrorism should be identified and removed, and the anti-terrorist efforts within each country should be co-ordinated and unified. Many delegations also believed that the struggle against international terrorism should be carried out within a framework of respect for human rights and political freedoms, and without violating in any way the principles of sovereignty and equality among States.

265. Delegations were of the opinion that enhanced co-operation in crime prevention was possible, as demonstrated by the example of certain subregions. Nevertheless, such co-operation required political will and a willingness to revise certain traditional concepts and practices so as to make them more accordant with modern dynamic realities. It also required substantial increases in technical co-operation at all levels, since many countries were in no position to finance the acquisition of expertise and the equipment that would allow them to participate effectively in the co-operative network. The United Nations crime prevention and criminal justice programme had to be adequately strengthened and provided with adequate resources in order to face the increasing demands for assistance from countries in need.

Consideration of draft resolutions

266. By its resolution 1990/23, the Economic and Social Council transmitted to the Congress the following draft resolutions, recommended for adoption by the Committee on Crime Prevention and Control at its eleventh session, 235/ which the Committee considered under this item:

(a) Model treaty on extradition (decision 11/106);

(b) Prevention and control of organized crime (decision 11/110);

(c) Terrorist criminal activities (decision 11/110);

(d) Model treaty on mutual assistance in criminal justice (decision 11/112);

(e) Model treaty on the transfer of proceedings in criminal matters (decision 11/120).

Model treaty on extradition

267. At the 5th meeting, on 29 August 1990, the Secretary of the Committee read out the modifications proposed to the draft resolution as a result of informal consultations.

268. At the same meeting, the Committee adopted the draft resolution as orally amended.

Model treaty on mutual assistance in criminal matters

269. Also at the 5th meeting, the Secretary of the Committee read out the modifications proposed to the draft resolution as a result of informal consultations.

270. At the same meeting, the Committee adopted the draft resolution, as orally amended.

Model treaty on the transfer of proceedings in criminal matters

271. At the same meeting, the Secretary of the Committee read out the modifications proposed to the draft resolution as a result of informal consultations.

272. At the same meeting, the Committee adopted the draft resolution, as orally amended.

Prevention and control of organized crime

273. At the same meeting, the Secretary of the Committee read out the modifications proposed to the draft resolution as a result of informal consultations.

274. At the same meeting, after statements were made by representatives of the Netherlands, Cuba, Jamaica and the United Kingdom, the Committee adopted the draft resolution, as orally amended.

Terrorist criminal activities

275. At the 9th meeting, on 4 September 1990, the Committee had before it a draft resolution (A/CONF.144/C.2/L.4) proposed by the Chairman of the Committee as a result of informal consultations held on the draft resolution contained in decision 11/111.

276. At the same meeting, the Committee adopted the draft resolution, as orally modified.

277. After the adoption of the draft resolution, the representative of Israel made a statement.

2. United Nations norms and guidelines in crime prevention and criminal justice: implementation and priorities for further standard setting (topic V) (agenda item 7)

Introduction

278. At its 1st plenary meeting, on 26 August 1990, the Congress allocated to Committee II agenda item 7 entitled "United Nations norms and guidelines in crime prevention and criminal justice: implementation and priorities for further standard setting" (topic V).

279. The Committee considered the item at its 6th to 11th meetings, from 30 August to 6 September 1990. The item was introduced by the representative of the Secretariat.

280. For its consideration of the item, the Committee had before it the following documents:

(a) Working paper prepared by the Secretariat on United Nations norms and guidelines in crime prevention and criminal justice: implementation and further standard setting (A/CONF.144/18);

(b) Report of the Secretary-General on the implementation of the Basic Principles on the Independence of the Judiciary (A/CONF.144/19 and Corr.1);

(c) Note by the Secretariat on a guide for practitioners regarding the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (A/CONF.144/20);

(d) Report of the Committee on Crime Prevention and Control on its eleventh session; 235/

(e) Report of the Secretary-General on measures to implement the declaration of basic principles of justice for victims of crime and abuse of power (E/AC.57/1988/3);

(f) Declaration of basic principles of justice for victims of crime and abuse of power (E/AC.57/1990/3);

(g) Code of Conduct for Law Enforcement Officials (E/AC.57/1988/8 and Add.1/Rev.1 and Add.2);

(h) Report of the Secretary-General on capital punishment (E/1990/38/Rev.1 and Corr.1 and Add.1);

(i) Report of the Secretary-General on the implementation of the United Nations safeguards guaranteeing protection of the rights of those facing the death penalty (E/AC.57/1988/9 and Corr.1 and 2);

(j) Report of the Secretary-General on extra-legal, arbitrary and summary executions and measures for their prevention and investigations (E/AC.57/1988/5 and Corr.1 and 2);

(k) Compendium prepared by the Secretariat on the United Nations standards and norms in the field of crime prevention and criminal justice (A/CONF.144/INF/2).

281. Delegations of 28 States, representatives of 5 non-governmental organizations and an individual expert made statements in the general discussion of the item. A statement was also made by the representative of the United Nations Centre for Human Rights.

General discussion

282. The Executive Secretary of the Congress introduced the topic. He stated that the United Nations, since its founding, had played a crucial role in the formulation of numerous international instruments in crime prevention and criminal justice. However, in view of the adoption of an increasing number of standards during the last five years, the implementation of which should be ensured, bringing standard-setting to a temporary halt would not help to avert an impending deadlock, which could affect both the mechanisms and the procedures for overseeing compliance with United Nations instruments, for which there was a compelling need for more resources to be allocated to permit expanded assistance to interested Member States. Unless the political will of Governments was translated into budgetary decisions, the Organization and Member States would be prevented from taking concrete action with respect to effective implementation.

283. As a step in the right direction, the Economic and Social Council, in resolution 1990/21, had authorized the Committee on Crime Prevention and Control to continue its practice of convening a pre-sessional working group on the implementation of standards and of having the Committee's Chairman designate members of the Committee to assist in period between sessions in this area. The Council had further invited the Eighth Congress to consider the means by which to accord adequate priority to implementation and the possibility of consolidating reporting arrangements.

284. The representative of the United Nations Centre for Human Rights presented to the Committee a statement of Mr. Jan Martenson, Under-Secretary-General for Human Rights, informing the Committee of the Centre's work in relation to issues discussed under this agenda item. He emphasized that the United Nations Crime Congresses and the United Nations crime prevention and criminal justice programme had made and would continue to make major contributions to the overall effort of the United Nations to promote human rights in the administration of justice. The two United Nations programmes - that on crime prevention and criminal justice and that on human rights - complemented each other in achieving the common objectives of respect for the dignity and rights of the individual, and of humanization of criminal justice.

285. The Committee expressed its appreciation of the working paper and the reports.

286. Many delegations welcomed the efforts of the United Nations in the formulation and implementation of norms and guidelines, which provided a basis for improvements in national criminal justice systems and for mechanisms of international co-operation in their implementation. Through the endeavours of the United Nations, the international community had developed numerous international instruments that covered the key issues in crime prevention and criminal justice, including the treatment of prisoners, the activity of law enforcement officials, and the treatment of victims. It was important now to ensure their practical implementation, with appropriate international assistance.

287. Some delegations drew attention to the particular socio-economic and cultural conditions of various countries, and stressed that the principles embodied in the instruments before the Congress were formulated in such a way that they could be applied in accordance with different circumstances and legal traditions. In this context, many delegates drew attention to their own legal systems, the problems encountered and the reforms that were needed or under way.

288. In this connection, some delegations expressed the view that the formulation of globally applicable norms and guidelines was a lengthy and laborious process that required the investment of considerable time and effort by experts in Member States, non-governmental and intergovernmental organizations, and the United Nations itself. Other delegations were of the opinion that before developing new standards, consideration should be given to the importance of the issue and the relevance of the projected standard. It was further emphasized that new norms and guidelines should be consistent with the existing United Nations instruments. An extensive body of standards had been developed, not only within the crime prevention and criminal justice programme, but also within the related areas of the protection of human rights, control of narcotics and other relevant sectors.

289. In their statements, delegates made reference to a number of existing United Nations instruments deemed to be of great significance, including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and its Optional Protocol, as well as its Second Optional Protocol aimed at the abolition of the death penalty, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the Code of Conduct for Law Enforcement Officials, the Standard Minimum Rules for the Treatment of Prisoners, the Safeguards on the Rights of Those Facing the Death Penalty and the Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment.

290. It was noted that the work of the United Nations had been expanded by the additional standards adopted by the Seventh Congress and endorsed by the General Assembly in its resolutions 40/32 and 40/36, namely, the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order; the Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power; the Basic Principles on the Independence of the Judiciary; and the Model Agreement on the Transfer of Foreign Prisoners and recommendations on the treatment of foreign prisoners.

291. Further, in 1989, the Economic and Social Council, on the recommendation of the Committee on Crime Prevention and Control, had adopted the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, the Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary and the guidelines for the effective implementation of the Code of Conduct for Law Enforcement Officials. These instruments had been endorsed by the General Assembly in its resolution 44/162. Also in 1989, the Council adopted additional resolutions on the implementation of the Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power and on the Beijing Rules. During the entire discussion, the importance of guaranteeing the implementation of all the above-mentioned international instruments was thoroughly stressed.

Implementation of standards

292. A number of reports related to the implementation of existing standards was considered by the Committee, including the surveys on the Basic Principles on the Independence of the Judiciary (A/CONF.144/19 and Corr.1) and on the Code of Conduct for Law Enforcement Officials (E/AC.57/1988/8 and Add.1/Rev.1 and Add.2). While some had been specifically prepared for consideration by the Congress, others had already previously been submitted to the Committee on Crime Prevention and Control and were brought to the attention of the Congress mainly for its information.

293. Many delegations pointed out that the need for the establishment of new international standards and norms, expressed by Governments, had contributed to a drastically changed situation in terms of reporting and monitoring. The changes were both quantitative, involving a major expansion in the number of implementation surveys, and qualitative, owing to increasing sophistication and complexity of the areas covered, as well as the interfaces with the United Nations human rights programme, as reflected in the recent General Assembly resolutions on human rights in the administration of justice.

294. In view of this several delegations welcomed the approach to programming adopted and concrete steps suggested by the pre-sessional working group on the implementation of United Nations standards (E/AC.57/1990/WG.2, annex I), convened immediately before the eleventh session of the Committee on Crime Prevention and Control. It was noted with satisfaction that this approach had been endorsed by the Committee and by the Economic and Social Council in its resolution 1990/21, in which the Council reiterated its request to Member States, inter alia, to implement the standards and norms, support the United Nations institutes and increase, as far as possible, contributions to technical co-operation and advisory services. Strong support was expressed, in this connection, for the Council's decision, in the above-mentioned resolution, to authorize the Committee to continue its practice of

convening a pre-sessional working group and of having the Committee's Chairman designate members of the Committee to assist in implementing standards during and between sessions.

295. Many delegations urged the United Nations to adopt a clarified order of priority for action. This need was illustrated by the Eighth Congress itself, where Member States had before them a number of draft international instruments, ranging from model agreements and standard minimum rules to manuals and guidelines. Already during the preparatory meetings, a great number of draft resolutions had been introduced, almost all of which called upon the Secretary-General to act on a variety of issues. Notwithstanding the importance of each of them, it was noted that Member States could not give equal attention to all crime prevention and criminal justice issues. The focus in the interregional work on standards should be on fundamental issues of global applicability in which the United Nations could play an effective role. Such arguments called not only for a consolidation of what had been achieved, but also for the adoption of a clear schedule regarding the monitoring of their implementation, in accordance with the needs of the countries concerned.

New standards and model treaties

The role of prosecutors

296. In the course of its deliberations on this subject, the Committee considered the draft guidelines on the role of prosecutors, which had been finalized by the Committee on Crime Prevention and Control at its eleventh session (decision 11/116) and transmitted by the Economic and Social Council for adoption by the Eighth Congress.

297. The Committee expressed its appreciation of the high quality of work which had gone into producing the draft. Emphasizing the important role of prosecutors in combating criminality and in promoting fair and equitable criminal justice, most delegates shared the view that the formulation of international guidelines on the role of prosecutors was needed.

298. Several delegations referred to the importance of national and international prosecutors' associations in protecting their status, and one delegation expressed the view that an international expert meeting on implementation of the guidelines would be useful.

299. Consensus was reached on specific amendments to the draft guidelines concerning, inter alia, the status and condition of service of prosecutors, use of evidence against suspects that was obtained through recourse to unlawful methods, position and rights of victims, and disciplinary proceedings. The amended text was adopted by the Committee.

The role of lawyers

300. Many delegates expressed strong support for the draft basic principles on the role of lawyers, which had been finalized by the Committee on Crime Prevention and Control at its eleventh session (decision 11/109) and submitted by the Economic and Social Council for adoption by the Eighth Congress.

301. After expressing general consensus on the need for formulating basic principles in this area, the discussion focused on the following points: the rights of an arrested, detained or imprisoned person to be visited by and to consult with lawyers; the requirement that lawyers must be nationals of the country in which they are admitted to practice; and lawyers' access to appropriate information, files and documents. As a result of informal consultations, the Committee adopted an amended text of the principles.

Use of force and firearms by law enforcement officials

302. Many delegations observed that the Basic Principles in this field reflected careful drafting over the past three years, starting from the international meeting of experts at Baden in 1987, continuing with the regional and interregional preparatory meetings and finalized at the eleventh session of the Committee on Crime Prevention and Control. There was consensus that the principles were a very useful and well-balanced instrument which was in full conformity with the Code of Conduct for Law Enforcement Officials and other universally recognized human rights instruments.

303. One delegation expressed the opinion that the Basic Principles should have been more explicit as to the regulation of the use of automatic firearms in contrast to the use of other types of firearms. Other delegations noted that there was no clear definition of "automatic firearms" and that the Principles already regulated the differentiated use of force and firearms. In this connection, the importance of the principle of proportionality was underlined. Another delegation mentioned that in its country law enforcement officials on regular duty were armed only with batons. After other changes were agreed upon in informal consultations, an amended text was adopted by the Committee.

Transfer of the supervision of offenders conditionally sentenced or conditionally released

304. The Committee considered the draft model agreement on this subject, which had been finalized by the Committee on Crime Prevention and Control at its eleventh session (decision 11/121) and submitted by the Economic and Social Council to the Eighth Congress for possible adoption. After informal consultations on the scope of application of the model agreement, the documents required for the request of the transfer of supervision and the question of dual-criminality, the Committee adopted an amended text by consensus.

Prevention of victimization and protection of victims

305. The Committee reviewed the reports of the Secretary-General on the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (E/AC.57/1988/3 and E/AC.57/1990/3), prepared in response to Economic and Social Council resolutions 1986/10 and 1989/57. Several delegations noted with appreciation that both reports highlighted the work carried out so far in implementing the Declaration and outlined areas deserving further attention, including the development of international means of recourse where national channels may be insufficient, and the elaboration of more detailed

provisions for victims of abuse of power. The development of the Guide for practitioners was also welcomed, as was the proposal for its wide distribution.

306. Several delegations outlined the steps taken in their countries to strengthen the position of victims, in line with the Declaration, including the adoption by one country of a statement of basic principles of justice for some victims, and by some others, of charters of victims' rights. Support was expressed for the draft resolution on the human rights of victims and for continued United Nations efforts to provide justice, protection and assistance to victims.

Capital punishment

307. The attention of the Committee was drawn to the report of the Secretary-General on capital punishment (E/1990/38/Rev.1), containing the results of the fourth quinquennial survey called for by Council resolution 1745 (LIV) and prepared mainly on the basis of information received from 43 Member States for the period 1984-1988. In order to provide a more complete picture, the Committee had before it also a report, prepared in 1988 by Roger Hood, submitted to the Committee on Crime Prevention and Control at its tenth session, and published as a special issue of the International Review of Criminal Policy.

308. Some delegations recalled in this connection that the Economic and Social Council in its resolution 1989/64 had invited Member States to facilitate the efforts of the Secretary-General to gather comprehensive, timely and accurate information about and the implementation of the safeguards and the death penalty in general, and were urged to publish, for each category of offence for which the penalty was authorized, if possible on an annual basis, information about its use.

309. In discussing the report of the Secretary-General on the fourth quinquennial survey on capital punishment (E/1990/38/Rev.1 and Corr.1), many delegates from countries which had abolished capital punishment informed the Committee of the reasons that led to that decision. Many countries expressed their satisfaction at the apparent trend towards abolition as evidenced by the responses reflected in the fourth quinquennial survey and expressed the hope that this trend will continue and spread in the future. They also welcomed the practice, adopted by some countries which retained capital punishment, not to execute the sentences imposed. Conversely, the same delegates expressed their concern at the increase of executions in some countries, as well as at the tendency in some countries to effect amendments in existing legislation by virtue of which the death penalty would be imposed for, inter alia, drug-related offences.

310. Some countries referred to the strong views of public opinion against the abolition of capital punishment for heinous crimes, cited arguments for retaining it and stated especially that the death penalty had a deterrent effect. Nevertheless, monitoring capital punishment through the quinquennial surveys of the United Nations was deemed useful in terms of exchanging information on current developments.

311. Many delegates made reference to the report on the implementation of the United Nations safeguards guaranteeing the protection of the rights of those facing the death penalty (E/AC.57/1988/19 and Corr.2) as well as the report on extra-legal, arbitrary and summary executions and measures for their prevention and

investigation (E/AC.57/1988/5), expressing their deep concern at the occurrence of such abhorrent practices, which were to be universally condemned.

Consideration of draft resolutions

Recommendations contained in the report of the Committee on Crime Prevention and Control

312. In its resolution 1990/23, of 24 May 1990, the Economic and Social Council transmitted to the Congress the following draft resolutions recommended by the Committee on Crime Prevention and Control at its eleventh session, 235/ which the Committee considered under this item:

(a) "Basic Principles on the Use of Force and Firearms by Law Enforcement Officials" (decision 11/107);

(b) "Basic Principles on the Role of Lawyers" (decision 11/109);

(c) "Protection of the human rights of victims of crime and abuse of power" (decision 11/113);

(d) "Guidelines on the Role of Prosecutors" (decision 11/116);

(e) "Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released" (decision 11/121).

Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

313. At its 8th meeting, the Committee had before it a draft resolution (A/CONF.144/C.2/L.1) proposed by the Chairman of the Committee as a result of informal consultations held on the draft resolution contained in decision 11/107.

314. At the same meeting, the Committee adopted the draft resolution.

Basic Principles on the Role of Lawyers

315. At its 8th meeting, the Committee had before it a draft resolution (A/CONF.144/C.2/L.2) proposed by the Chairman of the Committee as a result of informal consultations held on the draft resolution contained in decision 11/109.

316. At the same meeting, the Committee adopted the draft resolution.

Guidelines on the Role of Prosecutors

317. At its 8th meeting, the Committee had before it a draft resolution (A/CONF.144/C.2/L.3) proposed by the Chairman of the Committee as a result of informal consultations held on the draft resolution contained in decision 11/116.

318. At the same meeting, the Committee adopted the draft resolution.

Protection of the human rights of victims of crime and abuse of power

319. At its 8th meeting, the Committee had before it a draft resolution (A/CONF.144/C.2/L.5) proposed by the Chairman of the Committee as a result of informal consultations held on the draft resolution contained in decision 11/113.

320. At the same meeting, the representative of France made a statement.

321. The Committee then adopted the draft resolution.

Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released

322. At its 9th meeting, on 4 September 1990, the Committee had before it a draft resolution (A/CONF.144/C.2/L.6) proposed by the Chairman of the Committee as a result of informal consultations held on the draft resolution contained in decision 11/121.

323. At the same meeting, statements were made by the representatives of Saudi Arabia, Austria and Hungary.

324. The representative of the Crime Prevention and Criminal Justice Branch made a statement.

325. At the same meeting, the Committee adopted the draft resolution.

Other draft proposals

Transfer of enforcement of penal sanctions

326. At the 8th meeting, the representative of Switzerland, on behalf of Cuba, Italy, Spain, Sweden and Switzerland, subsequently joined by Zaire, introduced a draft resolution (A/CONF.144/C.2/L.8) entitled "Transfer of enforcement of penal sanctions".

327. At its 10th meeting, on 5 September, the Committee had before it a revised draft resolution (A/CONF.144/C.2/L.8/Rev.1), which incorporated the revisions agreed upon as a result of informal consultations.

328. At the same meeting, the Committee adopted the revised draft resolution.

Development of future procedures for evaluating the extent to which Member States implement United Nations norms and guidelines in criminal justice and crime prevention

329. At the 8th meeting, the representative of the United Kingdom of Great Britain and Northern Ireland, on behalf of Australia, Canada, the Netherlands, New Zealand, Uganda, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania and Yugoslavia, introduced a draft resolution (A/CONF.144/C.2/L.9) entitled "Development of future procedures for evaluating the

extent to which Member States implement United Nations norms and guidelines in criminal justice and crime prevention".

330. At its 10th meeting, the Committee had before it a revised draft resolution (A/CONF.144/C.2/L.9/Rev.1), which incorporated the revisions agreed upon as a result of informal consultations.

331. At the same meeting, the Secretary of the Committee informed the Committee of revisions to operative paragraph 1. Further revisions were agreed upon to operative paragraph 2.

332. At the same meeting, the Committee adopted the revised draft resolution, as further orally revised.

Preparation and signing of a universal covenant on imprisonment

333. At its 8th meeting, on 4 September, the representative of Chile introduced the draft resolution (A/CONF.144/C.2/L.10) entitled "Preparation and signing of a universal covenant on imprisonment", which read as follows:

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Recognizing the progress achieved to date with regard to the preparation of standard minimum rules and various resolutions and recommendations regarding imprisonment,

"Bearing in mind that treaty norms are all binding in nature and take precedence over customary norms in regard to imprisonment,

"Considering that the Charter of the United Nations confers on the Organization responsibility for the progressive development and codification of international law,

"Recalling the provisions of the 1966 Vienna Convention on the Law of Treaties, their evolution, their interpretation, reservations and other pertinent provisions,

"Recommends that the Committee on Crime Prevention and Control should be requested to formulate as soon as possible a preliminary draft universal covenant on imprisonment that would codify, compile and establish new norms covering, as far as possible, the entire corpus of contemporary law relating to imprisonment."

334. At its 10th meeting, the Committee was informed that the draft resolution (A/CONF.144/C.2/L.10) had been withdrawn by its sponsor.

Death penalty

335. At the 8th meeting, on 4 September, the representative of Italy, on behalf of Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Cape Verde, Chile, Colombia, Costa Rica, Czechoslovakia, the Dominican Republic, Ecuador, France, the Federal Republic of Germany, Hungary, Ireland, Italy, Malta, Mozambique, the Netherlands, New Zealand, Nicaragua, Panama, the Philippines, Poland, Portugal, Romania, Sierra Leone, Spain, Switzerland, the United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela and Yugoslavia introduced a draft resolution (A/CONF.144/C.2/L.7) entitled "Death penalty".

336. At the 11th meeting, on 6 September, after a proposal by the Chairman to postpone consideration of the draft resolution to its next meeting in order to enable delegations to reach a consensus on the text, statements were made by the representatives of Austria, Italy, Malaysia, Bangladesh, Pakistan, Japan, the Congo, Malta, Spain, India, the Islamic Republic of Iran, Indonesia, Nigeria, Portugal, Cape Verde, Cuba, China, Switzerland, Bolivia, France, Jamaica, Chile, Thailand, Czechoslovakia, Turkey, Gabon, Zimbabwe, Cyprus and Hungary.

337. At the same meeting, the representative of Algeria, on behalf of Algeria, Egypt, Jordan, Saudi Arabia, Oman and Yemen, orally proposed the following amendments to the draft resolution, which were subsequently issued in document A/CONF.144/C.2/L.11:

(a) The deletion in operative paragraph 2 of the phrase "with a view to the desirability of abolishing this form of punishment";

(b) The replacement in operative paragraph 4 of the word "use" by the words "field of application";

(c) The replacement, in operative paragraph 5 of the words "which have not abolished capital punishment" by the words "whose legal systems do not constitute absolute impediments to the abolition of capital punishment".

338. At the same meeting, the representative of Malta orally proposed an amendment, namely, to reword operative paragraph 5 to read as follows:

> "5. Invites States to consider the possibility of establishing a moratorium of the death penalty, at least on a three-year basis, or creating other considerations under which capital punishment is not executed, so as to permit a study of the effects of abolition on a provisional basis;".

339. After statements were made by the representatives of Brazil, the Federal Republic of Germany, Malaysia, the Sudan and Norway, the representative of the Union of Soviet Socialist Republics moved, under rule 25, the closure of the debate.

340. Statements against the motion were made by the representatives of Pakistan and Oman.

341. By 49 votes to 17, with 10 abstentions, the motion by the Union of Soviet Socialist Republics for the closure of the debate was carried.

342. At the same meeting, the representative of Malta withdrew his amendment.

343. At the 12th meeting, on 6 September, the representative of Malaysia moved, under rule 24 of the rules of procedure, to defer consideration of the draft resolution to the Ninth Congress.

344. The representative of the Federal Republic of Germany made a statement. The representative of the Office of Legal Affairs also spoke.

345. The Chairman ruled that the motion for the adjournment of the debate under rule 24 proposed by Malaysia was receivable.

346. In accordance with rule 18 of the rules of procedure, the representative of Austria, appealed against the ruling of the Chairman.

347. The appeal was carried by 33 votes to 28, with 12 abstentions.

348. The Committee then proceeded to vote on the amendments proposed by Algeria (A/CONF.144/C.2/L.11). The result of the vote was as follows:

(a) The first amendment was rejected by 35 votes to 13, with 14 abstentions;

(b) The second amendment was rejected by 34 votes to 10, with 24 abstentions;

(c) The third amendment was rejected by 38 votes to 14, with 19 abstentions.

349. The Committee then proceeded to hear statements in explanation of vote before the vote on draft resolution A/CONF.144/C.2/L.7 by the representatives of Bangladesh, Barbados, Trinidad and Tobago, Mexico, the Union of Soviet Socialist Republics and Sweden, who also spoke on behalf of Finland, Norway and Sweden.

350. The Committee then adopted draft resolution A/CONF.144/C.2/L.7 by 40 votes to 21, with 16 abstentions.

351. Statements in explanation of vote after the vote were made by the representatives of Jordan, Yemen, Zimbabwe, Peru and Algeria.

352. The draft resolution read as follows:

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Recalling General Assembly resolutions 1396 (XIV) of 20 November 1959, 1918 (XVIII) of 5 December 1963, 2393 (XXIII) of 26 November 1968, 2857 (XXVI) of 20 December 1971, 3011 (XXVIII) of 18 December 1972, 32/61 of 8 December 1977, 39/118 of 14 December 1984 and 44/128 of 15 December 1989,

"Recalling also Economic and Social Council resolutions 934 (XXV) of 9 April 1963, 1337 (XLIV) of 31 May 1968, 1574 (L) of 20 May 1971, 1656 (LII) of 1 June 1972, 1745 (LIV) of 16 May 1973, 1930 (LVIII) of 6 May 1975, 1979/22 of 9 May 1979, 1984/50 of 25 May 1984, 1985/33 of 29 May 1985, 1989/69 of 24 May 1989 and 1990/29 of 24 May 1990,

"Recalling in particular Economic and Social Council resolution 1990/51 of 24 July 1990, in which the Council requested the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to examine thoroughly the question of capital punishment under item 7 of its provisional agenda,

"Having regard to article 3 of the Universal Declaration of Human Rights 1/ and article 6 of the International Covenant on Civil and Political Rights 2/ which protect everyone's right to life,

"Having also regard to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights which prohibit torture and cruel, inhuman or degrading treatment or punishment,

"Having regard further to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, adopted by the General Assembly in its resolution 44/128 of 15 December 1989, and the Sixth Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty, adopted on 28 April 1983 and the Protocol to the American Convention on Human Rights concerning the abolition of the death penalty, adopted on 8 June 1990 by the Organization of American States,

"Having thoroughly discussed, in pursuance of Economic and Social Council resolution 1990/51, the question of capital punishment,

"Having examined the fourth quinquennial report of the Secretary-General on capital punishment 3/ and other relevant documentation, 4/

"1. Takes note of the fact that there has been within a number of countries a de jure and de facto trend towards the abolition of the death penalty;

"2. Reaffirms, in accordance with General Assembly resolution 2857 (XXVI), that, in order fully to guarantee the right to life, provided for in article 3 of the Universal Declaration of Human Rights, the main objective to be pursued is that of progressively restricting the number of offences for which capital punishment may be imposed, with a view to the desirability of abolishing this form of punishment;

"1/ General Assembly resolution 217 A (III).

"2/ General Assembly resolution 2200 A (XXI), annex.

"3/ E/1990/38/Rev.1 and Add.1 and Corr.1.

"4/ Report of the Secretary-General on the implementation of the United Nations safeguards guaranteeing protection of the rights of those facing the death penalty (E/AC.57/1988/9 and Corr.2); report of the Secretary-General on the extra-legal, arbitrary and summary executions and measures for their prevention and investigation (E/AC.57/1988/5 and Corr.1 and 2).

"3. Recommends that States which have not abolished the death penalty take steps to implement the safeguards guaranteeing protection of the rights of those facing the death penalty;

"4. Expresses the hope, while recognizing the diversity of political, economic, social, cultural and religious systems, that in States which have not abolished capital punishment, its application will not be extended to new categories of offences and its use will be gradually restricted, taking into account the circumstances prevailing in each country;

"5. Invites those States which have not abolished capital punishment to consider the possibility of establishing, within the framework of their national legislations, a moratorium in its application, at least on a three-year basis, or creating other conditions under which capital punishment is not imposed or executed, so as to permit a study of the effects of abolition on a provisional basis;

"6. Invites the Economic and Social Council:

"(a) To request the Secretary-General to monitor, in the framework of his five-year report on capital punishment, world-wide developments related to the legal provisions and the actual imposition and execution of the death penalty;

"(b) To request the Committee on Crime Prevention and Control to keep the question of capital punishment under review in all its aspects."

3. Action taken by the Congress

353. At the 14th plenary meeting, on 7 September, the Rapporteur of Committee II introduced its reports on agenda item 5 (A/CONF.144/25) and agenda item 7 (A/CONF.144/27 and Add.1).

354. At the same meeting, the Congress adopted the five draft resolutions recommended under agenda item 5. (For the texts of the resolution, see chap. I, sect. A, resolutions 10 to 12, and sect. C, resolutions 26 and 27.)

355. Also at the same meeting, the Congress adopted the seven draft resolutions recommended for adoption by the Committee in paragraph 60 of its report on agenda item 7 (A/CONF.144/27). (For the texts of the resolutions, see chap. I, sect. A, resolution 13, sect. B, resolutions 2 and 3, and sect. C, resolutions 26 to 29.)

356. With regard to the draft resolution entitled "Death penalty" recommended by the Committee for adoption in paragraph 18 of its report (A/CONF.144/27/Add.1) (see para. 352 above), the representative of Saudi Arabia proposed, under rule 24 of the rules of procedure, that the Congress defer consideration of it until the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. Statements were made by the representatives of Bangladesh, Malaysia, Italy and Austria. The representative of France spoke on a point of order.

357. The proposal was rejected by a roll-call vote of 52 to 30, with 12 abstentions. The voting was as follows:

In favour: Algeria, Bahamas, Bangladesh, Barbados, Belize, Botswana, Burundi, China, Congo, Djibouti, India, Indonesia, Iran (Islamic Republic of), Jamaica, Japan, Jordan, Libyan Arab Jamahiriya, Malaysia, Mali, Oman, Pakistan, Republic of Korea, Saudi Arabia, Sri Lanka, Swaziland, Syria, Thailand, Yemen, Zaire, Zimbabwe.

Against: Albania, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Canada, Cape Verde, Chile, Colombia, Costa Rica, Czechoslovakia, Dominican Republic, Ecuador, Equatorial Guinea, Finland, France, German Democratic Republic, Germany, Federal Republic of, Greece, Guinea-Bissau, Hungary, Israel, Italy, Lao People's Democratic Republic, Malta, Mexico, Mongolia, Netherlands, New Zealand, Nicaragua, Norway, Panama, Peru, Philippines, Poland, Portugal, Romania, Samoa, Sierra Leone, Somalia, Spain, Sweden, Switzerland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela, Yugoslavia.

Abstaining: Argentina, Benin, Bhutan, Cuba, Ethiopia, Guinea, Holy See, Togo, Trinidad and Tobago, Turkey, United Republic of Tanzania, Viet Nam.

358. At the same meeting, the Congress voted on the draft resolution, which was rejected by a roll-call vote of 48 in favour to 29 against, with 16 abstentions, not having received the two-thirds majority vote required under rule 33 of the rules of procedure. The voting was as follows:

In favour: Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Canada, Cape Verde, Chile, Colombia, Costa Rica, Czechoslovakia, Dominican Republic, Ecuador, Finland, France, German Democratic Republic, Germany, Federal Republic of, Greece, Guinea-Bissau, Hungary, Italy, Lao People's Democratic Republic, Malta, Mexico, Mongolia, Netherlands, New Zealand, Nicaragua, Panama, Peru, Philippines, Poland, Portugal, Romania, Samoa, Sierra Leone, Spain, Sweden, Switzerland, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela, Yugoslavia.

Against: Albania, Algeria, Bahamas, Bangladesh, Botswana, Burkina Faso, Burundi, China, Congo, Djibouti, Equatorial Guinea, Gabon, India, Indonesia, Iran (Islamic Republic of), Japan, Jordan, Malaysia, Mali, Oman, Pakistan, Republic of Korea, Saudi Arabia, Somalia, Sri Lanka, Swaziland, Syria, Thailand, Yemen.

Abstaining: Argentina, Barbados, Belize, Benin, Bhutan, Cuba, Ethiopia, Guinea, Holy See, Israel, Jamaica, Niger, Togo, Trinidad and Tobago, United Republic of Tanzania, Zimbabwe.

359. After the draft resolution had been rejected, statements were made by the representatives of Burundi, Turkey, Malaysia, Guinea, Israel, Venezuela and Brazil.

D. Report of the Credentials Committee

360. The Credentials Committee held one meeting on 31 August 1990. Mr. Mongulu T'Apangane (Zaire) was unanimously elected Chairman of the Committee.

361. The Committee noted from a memorandum submitted to it by the Executive Secretary of the Congress that, as at 31 August 1990:

(a) There were 127 States participating in the Congress;

(b) Formal credentials issued by the Head of State or Government or by the Minister for Foreign Affairs, as provided for in rule 3 of the rules of procedure of the Congress, had been submitted by representatives of 74 States;

(c) The designation of the representatives of 53 States had been communicated to the Executive Secretary of the Congress by means of a letter, note verbale, cable or facsimile from their respective permanent representatives or permanent missions to the United Nations (New York or Vienna), their embassies in Havana of their Ministries of Justice or other authorities.

362. On the proposal of the Chairman, the Committee accepted the credentials of representatives submitted in accordance with rule 3 of the rules of procedure of the Congress and accepted as provisional credentials the other communications received and reported to the Committee on the understanding that credentials, in due form as required under rule 3 of the rules of procedure, would be promptly submitted to the Executive Secretary of the Congress.

Action by the Congress

363. At its 11th plenary meeting, on 4 September, the Congress adopted without a vote the draft resolution recommended by the Credentials Committee in paragraph 12 of its report (A/CONF.144/21). (For the text of the resolution, see chap. I, sect. C, resolution 3.)

CHAPTER V

ADOPTION OF THE REPORT OF THE CONGRESS

364. At the 14th plenary meeting, on 7 September, the Rapporteur-General introduced the draft report on agenda item 3 (A/CONF.144/23 and Add.1).

365. In his statement, the Rapporteur-General noted that countries were increasingly recognizing the negative impact of criminality on the development process and the quality of life. The variety of measures adopted by the Congress and the many innovative approaches discussed provided a valuable repertory of experience on which countries could draw. He drew attention to the spectrum of crime problems and needs, which required an effective national and international response, particularly strengthened technical assistance to developing countries, given the escalating dimensions of crime and its dangerous new transnational forms. He reiterated his conviction that the Congress had served a most valuable purpose and had clearly demonstrated the commitment and will of States to respond fully to the threat of crime as the international community approached the twentieth century.

366. The Congress then adopted the draft report on agenda item 3 as orally revised. The report of the Congress would comprise that draft report and the reports of Committee I on agenda items 4 and 6 (A/CONF.144/24 and Add.1 and A/CONF.144/26 and Add.1) and the reports of Committee II on agenda items 5 and 7 (A/CONF.144/25 and A/CONF.144/27 and Add.1), which were also introduced at the 14th plenary meeting.

367. The Congress then adopted its report as a whole and requested the Rapporteur-General to complete the text in the light of the action taken in plenary and to make the necessary editorial changes in conformity with accepted United Nations practice.

Closure of the Congress

368. After the adoption of the report, the representative of Yugoslavia, First Vice-President of the Congress, introduced a draft resolution (A/CONF.144/L.22), entitled "Expression of thanks to the people and Government of Cuba". The Congress adopted the draft resolution by acclamation. (For the text of the resolution, see chap. I, sect. C, resolution 30.)

CLOSURE OF THE CONGRESS

369. Expressions of appreciation to the host Government and people, to the officers of the Congress, the secretariat and all those associated with it, who had made it such a success, were voiced by the representatives of Swaziland, on behalf of the African States; the Philippines, on behalf of the Asian and Pacific States; the Ukrainian Soviet Socialist Republic, on behalf of the Eastern European States; Brazil, on behalf of Latin American and Caribbean States; Austria, on behalf of Western European and other States; and the Libyan Arab Jamahiriya, on behalf of the Arab States. The representative of Israel also made a statement.

370. In a closing statement, the Secretary-General of the Congress congratulated the participants on their productive work and thanked the host country for its generous welcome and excellent facilities. The Eighth Congress had adopted more model instruments, principles, resolutions and recommendations than all the previous Congresses together. The fact that they were all adopted by consensus attested to the wide agreement on a whole range of important issues and the recognition that urgent action was needed to combat the growing menace of crime. In spite of political, cultural and ideological differences, there was a basic concordance of values and a profound desire to live in peace in a better world, of greater justice and less suffering and crime. However, without the political will to translate the decisions of the Congress into actual practice, they would remain but a list of good intentions. It was therefore essential that they become national and international realities, and that the means be provided to make them so.

371. The President of the Congress in his closing statement underlined the intensive effort that the host country had made to ensure the proper preparation and efficient functioning of the Eighth Congress. The Congress had been highly productive; it also permitted those associated with it to learn from this valuable experience, and he hoped that it would also remain a high-spot in the memory of all those who participated in it. He declared the Congress closed.

Annex

List of documents

A. Conference documents

Document number	Agenda item	Title and description
A/CONF.144/1	2 (c)	Provisional agenda
A/CONF.144/2 and Corr.1	2 (b)	Provisional rules of procedure
A/CONF.144/3/Rev.1	2	Adoption of the agenda and organization: note by the Secretariat
A/CONF.144/4	6	Implementation of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice: report of the Secretary-General
A/CONF.144/5	3	Working paper prepared by the Secretariat on crime prevention and criminal justice in the context of development: realities and perspectives of international co-operation
A/CONF.144/6	3	The Third United Nations Survey on Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies: report prepared by the Secretariat
A/CONF.144/7	3	Proposals for concerted international action against forms of crime identified in the Milan Plan of Action: report prepared by the Secretariat
A/CONF.144/8	3	Practical measures against corruption: manual prepared by the Secretariat
A/CONF.144/9	3	Inventory of comprehensive crime prevention measures: note by the Secretary-General
A/CONF.144/10	4	Criminal justice policies in relation to the problem of imprisonment, other penal sanctions and alternative measures: working paper prepared by the Secretariat

Document number	Agenda item	Title and description
A/CONF.144/11	4	Implementation of the Standard Minimum Rules for the Treatment of Prisoners: report of the Secretary-General
A/CONF.144/12	4	Alternatives to imprisonment and the reduction of the prison population: report of the Secretary-General
A/CONF.144/13	4	Research on alternatives to imprisonment: report of the Secretary-General
A/CONF.144/14	4	Computerization of criminal justice administration: report of the Secretary-General
A/CONF.144/15	5	Working paper prepared by the Secretariat on effective national and international action against: (a) organized crime; (b) terrorist criminal activities
A/CONF.144/16	6	Working paper prepared by the Secretariat on prevention of delinquency, juvenile justice and the protection of the young: policy approaches and directions
A/CONF.144/17	6	Domestic violence: report of the Secretary-General
A/CONF.144/18	7	Working paper prepared by the Secretariat on United Nations norms and guidelines in crime prevention and criminal justice: implementation and further standard setting
A/CONF.144/19 and Corr.1	7	Implementation of the Basic Principles on the Independence of the Judiciary: report of the Secretary-General
A/CONF.144/20	7	Guide for practitioners regarding the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power: note by the Secretariat
A/CONF.144/21	2	Report of the Credentials Committee

Document number	Agenda item	Title and description
A/CONF.144/22/Rev.1	2 (f)	Letter dated 31 August 1990 from the representatives of Algeria, Djibouti, Iran (Islamic Republic of), Jordan, Lebanon, the Libyan Arab Jamahiriya, Morocco, Oman, Saudi Arabia, the Sudan, the Syrian Arab Republic and Yemen and the Observer of Palestine to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to the Secretary-General of the Congress
A/CONF.144/23 and Add.1	8	Draft report of the Congress
A/CONF.144/24 and Add.1	4	Report of Committee I
A/CONF.144/25	5	Report of Committee II
A/CONF.144/26 and Add.1	6	Report of Committee I
A/CONF.144/27 and Add.1	7	Report of Committee II
A/CONF.144/L.1		Report of the pre-congress consultations held at the Palacio de Convenciones, Havana
A/CONF.144/L.2	3	Crime prevention and criminal justice in the context of development: realities and perspectives of international co-operation: note by the Secretariat
A/CONF.144/L.3	3	Draft resolution
A/CONF.144/L.4	3	Draft resolution
A/CONF.144/L.5	3	Draft resolution
A/CONF.144/L.6	3	Draft resolution
A/CONF.144/L.7	3	Draft resolution
A/CONF.144/L.8	3	Draft resolution
A/CONF.144/L.9 and Rev.1	3	Draft resolution
A/CONF.144/L.10	3	Draft resolution
A/CONF.144/L.11	3	Draft resolution
A/CONF.144/L.12	3	Draft resolution

Document number	Agenda item	Title and description
A/CONF.144/L.13	3	Draft resolution
A/CONF.144/L.14 and Rev.1	3	Draft resolution
A/CONF.144/L.15	3	Draft resolution
A/CONF.144/L.16	3	Draft resolution
A/CONF.144/L.17	3	Draft resolution
A/CONF.144/L.18	3	Draft decision
A/CONF.144/L.19	3	Draft resolution
A/CONF.144/L.20	3	Draft resolution
A/CONF.144/L.21	3	Draft decision
A/CONF.144/L.22	3	Draft resolution
A/CONF.144/C.1/L.1	4	Draft resolution
A/CONF.144/C.1/L.2	4	Draft resolution
A/CONF.144/C.1/L.3	4	Proposed amendments by Finland, Germany, Federal Republic of, Hungary, Japan, Nepal, Netherlands, New Zealand, Philippines, Switzerland, United Kingdom of Great Britain and Northern Ireland and Yugoslavia to the draft resolution on the United Nations standard minimum rules for non-custodial measures (the Tokyo Rules) (decision 11/108 of the Committee on Crime Prevention and Control)
A/CONF.144/C.1/L.4	6	Draft resolution
A/CONF.144/C.1/L.5	6	Draft resolution
A/CONF.144/C.1/L.6	4	Draft resolution
A/CONF.144/C.1/L.7	4	Draft resolution
A/CONF.144/C.1/L.8	4	Draft resolution
A/CONF.144/C.1/L.9	4	Draft resolution

Document number	Agenda item	Title and description
A/CONF.144/C.1/L.10	4	Computerization of criminal justice: draft amendments proposed by the delegations of Canada, Cuba, France and the United Kingdom of Great Britain and Northern Ireland to the draft resolution contained in decision 11/103 of document E/1990/31
A/CONF.144/C.1/L.11	4	Draft resolution
A/CONF.144/C.1/L.12	4	Draft resolution
A/CONF.144/C.1/L.13	4	Draft resolution
A/CONF.144/C.2/L.1	7	Draft resolution
A/CONF.144/C.2/L.2	7	Draft resolution
A/CONF.144/C.2/L.3	7	Draft resolution
A/CONF.144/C.2/L.4	5	Draft resolution
A/CONF.144/C.2/L.5	7	Draft resolution
A/CONF.144/C.2/L.6	7	Draft resolution
A/CONF.144/C.2/L.7	7	Draft resolution
A/CONF.144/C.2/L.8 and Rev.1	7	Draft resolution
A/CONF.144/C.2/L.9 and Rev.1	7	Draft resolution
A/CONF.144/C.2/L.10	7	Draft resolution
A/CONF.144/C.2/L.11	7	Amendments to draft resolution A/CONF.144/C.2/L.7
A/CONF.144/INF.1 and Corr.1		Information for participants: background
A/CONF.144/INF.2		Compendium of United Nations standards and norms in crime prevention and criminal justice
A/CONF.144/INF.3 and Corr.1		List of participants
A/CONF.144/IPM.1	7	Report of the Interregional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on topic I

Document number	Agenda item	Title and description
A/CONF.144/IPM.2	7	Report of the Interregional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on topic III
A/CONF.144/IPM.3	7	Report of the Interregional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on topic IV
A/CONF.144/IPM.4	7	Report of the Interregional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on topic II
A/CONF.144/IPM.5	7	Report of the Interregional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on topic V
A/CONF.144/PM.1	7	Discussion guide for the interregional and regional preparatory meetings for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders
A/CONF.144/RPM.1 and Corr.1	7	Report of the Asia and Pacific Regional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders
A/CONF.144/RPM.2 and Corr.1	7	Report of the European Regional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders
A/CONF.144/RPM.3 and Corr.1	7	Report of the Latin American and Caribbean Regional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Document number	Agenda item	Title and description
A/CONF.144/RPM.4 and Corr.1	7	Report of the Western Asian Regional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders
A/CONF.144/RPM.5 and Corr.1 and 2	7	Report of the African Regional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

NGO documents

Document number	Title and description
A/CONF.144/NGO 1 item 5	International Association of Penal Law (II) International Society of Criminology (II) International Society of Social Defence (II) International Penal and Penitentiary Foundation (other org.) "Effective National and International Action against: (a) Organized Crime; (b) Terrorist Criminal Activities"
A/CONF.144/NGO 2 items 4 and 5	Centro Nazionale di Prevenzione e Difesa Sociale (II) International Society of Social Defence "Cesare Beccaria and Modern Criminal Policy"
A/CONF.144/NGO 3 item 7	Amnesty International (II) "Recommendations of Amnesty International on the occasion of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders"
A/CONF.144/NGO 4 item 4	League of Red Cross and Red Crescent Societies (II) "National Red Cross and Red Crescent Societies' Social Welfare Work for Prisoners and their Families"
A/CONF.144/NGO 5 item 5	International Institute of Higher Studies in Criminal Sciences (II) "Draft Statute: International Criminal Tribunal"
A/CONF.144/NGO 6 item 3	International Council for Adult Education (II) "The Importance of Education for Crime Prevention and Criminal Justice in the Context of Development"

Document number	Title and description
A/CONF.144/NGO 7 item 5	International Institute of Higher Studies in Criminal Sciences (II) "A Comprehensive Strategic approach on International Cooperation for the Prevention, Control and Suppression of International and Transnational Criminality, including the establishment of an International Court"
A/CONF.144/NGO 8 item 3	World Society of Victimology (II) "Agenda for Safer Cities: Final Declaration of the European and North-American Conference on Urban Safety and Crime Prevention"
A/CONF.144/NGO 9 item 4	International Prisoners Aid Association (II) "Recommendations from the International Prisoners Aid Association"
A/CONF.144/NGO 10 item 4	International Penal and Penitentiary Foundation "Statement on the Implementation of Alternatives to Imprisonment"
A/CONF.144/NGO 11 item 7	World Society of Victimology (II) "Victims of Crime and Abuse of Power: Everyone's Responsibility"
A/CONF.144/NGO 12 item 6	Defence for Children International (II) "The Draft UN Rules on the Protection of Juveniles Deprived of their Liberty"
A/CONF.144/NGO 13 items 3 and 7	International Federation of Human Rights (II) "Recommendations au l'occasion du Huitième Congrès des Nations Unies pour la Prévention du Crime et le Traitement des délinquants"
A/CONF.144/NGO 14 item 4	Friends World Committee for Consultative (Quakers) (II) "A Statement on Restorative Justice"

B. Other documents

Document number	Title and description
A/45/325	Implementation of the resolutions and recommendations of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders: report of the Secretary-General
A/CONF.121/22/Rev.1	Report of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders
E/1986/25	Report of the Committee on Crime Prevention and Control on its ninth session
E/1988/20	Report of the Committee on Crime Prevention and Control on its tenth session
E/1990/31 and Add.1 and E/1990/31/Corr.1 a/	Report of the Committee on Crime Prevention and Control on its eleventh session
E/1990/38 and Corr.1 and E/1990/38/Rev.1 and Corr.1	Capital punishment: report of the Secretary-General
E/AC.57/1988/3	Measures to implement the declaration of basic principles of justice for victims of crime and abuse of power: report of the Secretary-General
E/AC.57/1988/5 and Corr.1 and 2	Extra-legal, arbitrary and summary executions and measures for their prevention and investigations: report of the Secretary-General
E/AC.57/1988/8 and Add.1/Rev.1	Code of Conduct for Law Enforcement Officials
E/AC.57/1988/9 and Corr.2	Implementation of the United Nations safeguards guaranteeing protection of the rights of those facing the death penalty: report of the Secretary-General
E/AC.57/1990/3	Declaration of basic principles of justice for victims of crime and abuse of power

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a/ Official Records of the Economic and Social Council, 1990, Supplement No. 10 (E/1990/31).